



**EXECUTIVE OFFICE OF ENERGY &
ENVIRONMENTAL AFFAIRS**
Richard K. Sullivan, Jr., Secretary
Grant Announcement

Request for Responses (RFR) ENV 13 DCS 04
Posting Date: August 10, 2012

Landscape Partnership Grant
FY 2013

1. GRANT OPPORTUNITY SUMMARY:

A. PROPOSALS SOUGHT FOR: Financial assistance for the purchase of property interests in large, unique, unfragmented conservation and working landscapes, in single or multiple parcels, by two or more entities acting in cooperation.

B. OVERVIEW AND GOALS: In furtherance of Patrick-Murray Administration environmental goals, the Executive Office of Energy and Environmental Affairs (EEA) protects, conserves, and restores the biodiversity and natural resources of the Commonwealth. To fulfill this mission, Richard K. Sullivan, Jr., Secretary of EEA, is making available funding for the FY 2013 Landscape Partnership Grant Program.

This program will advance large-scale continuity in conservation lands necessary to sustain the integrity and resilience of ecosystems and the viability of local farm and forest economies. It will facilitate complex large-acreage projects, increase the leveraging of state financial investments, expand partnerships among state, municipal, and non-profit entities by consolidating several application processes into a single application, enhance the stewardship of conservation easements, expand public access opportunities, and encourage broader cooperation between municipalities. The program provides funding to assist municipal, state, and non-profit partners, acting in cooperation, in acquiring interests in lands suitable for conservation purposes, including undeveloped lands, working farms and forests, water supply land, unique ecosystems, rare species and Priority Habitats, and restored lands, thereby securing for the future the Commonwealth's rich natural heritage. It also provides funding for the development of municipal zoning for the protection of open space and working lands.

C. ELIGIBLE PROJECTS: Purchase of a minimum of 500 acres of land through fee simple acquisition, or conservation restriction (CR), or agricultural preservation restriction (APR), or watershed preservation restriction (WPR), or a combination of these, which may include assistance to municipalities for the development of municipal Open Space Residential Design (OSRD) or Natural Resource Protection zoning (NRPZ). Project parcels may be contiguous or non-contiguous if they are directly linked by other permanently protected land. See further detail on eligible projects in section 2B.

D. ELIGIBLE APPLICANTS: Applications must be submitted jointly by two or more of the following entities, with at least one partner from two of the category types, acting in cooperation: 1) municipal conservation commissions and municipal and non-profit public water suppliers; 2) non-profit 501(c)(3) organizations that

have been formed for one of the purposes described in M.G.L. C. 180 §. 4; and 3) state or federal environmental land agencies. At least two of the partners in an application must be involved in the project to a significant degree, ideally meaning financial contributions and the holding of property interests. See further detail on eligible applicants in section 2A.

E. APPLICATION DEADLINE: Monday, October 22, 2012

See further detail on deadlines and grant program calendar in section 4.

F. FUNDING AVAILABILITY: Maximum grant award: \$1.5 million. See further detail on Funding Availability in section 2E.

G. BUDGET REQUIREMENT: Applicants selected to receive grant funding must document the use of funds from other sources comprising at least 50% of total project costs. See further detail on budget requirement in section 2F.

H. TOTAL ANTICIPATED DURATION OF CONTRACT(S): The contract period will begin on the date that the Secretary signs the contract or a specified later date. Multiple contracts may be awarded under a single application, to multiple project partners, upon determination of the review committee. Contracts issued pursuant to this RFR must expend 100% of costs associated with the approved project on or before the end of the fiscal year (June 30) for which the contract is awarded, FY 2013 or 2014. See further detail on anticipated duration of contract(s) in section 2H.

I. REGULATIONS, STATUTES, OR AUTHORIZATION GOVERNING THIS GRANT PROGRAM: This RFR is issued according to the following authorizations: M.G.L. c. 40, §38,39B, and 41; c. 236 § 2 of the Acts of 2002, 2000-2012; c. 312§2A of the Acts of 2008, 2000-7016; 2200-7017; 2300-7010; 2500-7012; and 2800-7011 and -7022. All properties receiving funding through this program will become permanently protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to conservation use in accordance with M.G.L. c. 40, §8c, or agricultural use under Chapter 780 of the Acts of 1977, or conservation under Chapter 312 §2A of the Acts of 2008. All projects for which grant assistance is provided must be open to the general public on at least a portion of the project, for appropriate passive recreational use. For land under a state environmental land agency, the public access policy of the relevant agency will be followed. See further detail in Attachment A.

J. CONTACT INFORMATION:

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2. PERFORMANCE AND CONTRACT SPECIFICATIONS

A. ELIGIBLE APPLICANTS:

All applications must include at least two eligible project partners, representing at least two of the following eligible applicant categories:

- Municipal Conservation Commissions and municipal and non-profit public water suppliers or fire districts;
- Non-profit 501(c)(3) organizations that have been formed for one of the purposes described in

M.G.L. c. 180 §4;

- Government environmental agencies, including Massachusetts Executive Office of Energy and Environmental Affairs (EEA) land agencies (Department of Fish and Game (DFG), Department of Agricultural Resources (DAR), and Department of Conservation and Recreation (DCR)), and federal agencies within the US Department of the Interior (USDOI) or US Department of Agriculture (USDA).

Note: Federal partners may not receive reimbursement funding through this grant program.

- Municipal planning commissions, departments, or boards of selectmen acting as such are eligible partners and may receive contracts under this grant program for development of NRPZ/OSRD only. They cannot be a primary project partner and may not purchase or hold property interests as a result of this program; thus any project including NRPZ will have *three* or more project partners.

The two primary project partners must have a significant involvement in the project, involving financial contributions, retention of property interests, and long-term stewardship commitments. Applications proposing alternative arrangements must clearly demonstrate that at least two partners are otherwise significantly involved.

Multiple applications will be accepted from the same entity. Projects including as partners the municipality/municipalities in which the project is located are encouraged.

B. ELIGIBLE PROJECT(S)/SCOPE(S) OF WORK:

EEA seeks to further the conservation of suitable land within the Commonwealth. Applications will be accepted for projects to be completed in Fiscal Year 2013 or 2014. Applications may include any combination of the following:

1. Purchase of land in fee simple for open space, forestry, agriculture or water supply;
2. Purchase of a Conservation Restriction (CR);
3. Purchase of an Agricultural Preservation Restriction (APR);
4. Purchase of a Watershed Preservation Restriction (WPR);
5. Consultation and technical assistance for development of municipal Open Space Residential Design (OSRD) (also called Natural Resources Protection zoning, or NRPZ) bylaws/ordinances. Zoning must be: formula-based; require 65-90% of the area of a parcel be kept undeveloped; and be applied to all currently undeveloped land outside of an identified higher density town center. See Attachment H for detailed description of zoning criteria. This type of project must be included with an otherwise eligible project; they are ineligible for funding through this program as stand-alone project proposals; and

I. Project size

Applications must include the acquisition of real property interests in a minimum of 500 acres of land. This requirement can be met by acquiring interests in one or more parcels of land that are contiguous, or that are directly linked by other permanently protected open space, including that held by 501(c)(3) non-profit land trusts. Inholdings are eligible.

While parcels separated by developed land or non-project, unprotected parcels may not count towards a project's minimum of 500 acres, they may still be included in a project as additional acreage. These additional project parcels should be adjacent or in close proximity to the core 500 acre project area. Applicants must demonstrate that unconnected parcels for which they seek funding, or the value of which they seek to include as match, are part of the immediate project landscape. EEA reserves total discretion to selectively fund, or allow as project match, non-contiguous parcels. Applicants who have included as their project match the acquisition of interests in unrelated, unconnected parcels deemed by EEA to be extraneous to the core

landscape may be asked to submit alternative sources of project match, subject to approval by EEA. See further details on match requirements in Sections 2E and 2F.

Specific issues relating to project acreage:

Water:

- Ponds, streams, and rivers do not constitute a break between project parcels.
- Land area under small and unprotected water bodies (typically under 10 acres) may be included in the total project acreage.
- Land area under a Great Pond (10 acres or larger historically, although they may no longer be this large), or larger body of water, may not count towards a project's 500 acres; they will be treated as permanently protected land, and can serve as a link between project parcels.

Roads:

- Roads, including paved and/or improved roads, driveways, or other pervious access roads, that are classified as public or private ways, and unpaved or unimproved roads that are classified as public ways, will *generally* be treated as fragmentors. Exceptions may be made at the sole discretion of EEA. Applicants whose projects include roads should pursue the following:
 1. Both sides of the road are held by or will be acquired by project partners;
 2. The terminus of the road is held by or will be acquired by a project partner; or
 3. The road will be decommissioned as part of the project along at least the portion that fronts parcels held by project partners.
- Unpaved and unimproved roads may remain in use for agriculture, forestry, water supply, or recreational access.
- Existing rights-of-way that run through project parcels and include the right to develop infrastructure and/or access for development, and are held by private third parties, will generally be treated as fragmentors, except where those interests will be removed, relocated, or otherwise mitigated as part of the project.

Developed/brownfield/grayfield parcels:

- Projects may include a parcel that is currently developed, or that has been damaged by previous developed uses, provided that the parcel is undeveloped, remediated, and restored to natural vegetation or agricultural use as part of the project. See Section 2.B.V below.
- Developed, brownfield, or grayfield parcels are not considered fragmentors if they are to be restored by the project; other undeveloped parcels that are connected only through a developed project parcel may count towards a project's 500 acres, if the developed land is restored by the project.

II. Eligibility of applicants and projects:

Project partners must apply in a single application, however, because of the different ways in which they are authorized to hold property interests, a few specific requirements pertain to individual project partners. Below are the requirements specific to 1). the project partner; and 2). the type of acquisition(s) proposed.

A. Applicants must meet the following requirements:

- a. Demonstrate the capacity to raise sufficient funds for project completion and long-term stewardship; and
- b. Have no unresolved protected open space conversion issues with EEA. See EEA Article 97 Disposition Policy at: www.mass.gov/Eoea/docs/eea/dcs/DCSArticle97.pdf.

B. Projects – General requirements for all projects:

- a. *Allow public access.* All projects must be open to the public for passive recreational use on at least a reasonable portion of the project.
- b. *Working lands.* While projects are not required to include actively-managed lands, applicants are

strongly encouraged to develop projects with at least 50% of total project acreage under active agriculture or forest management. Active farmland and forestland are here defined as:

Farmland – see section D.d below

Forestland – see section D.c below

C. Parcels - General requirements for all parcels:

- a. *Allow public access.* All parcels for which funding is sought to acquire the fee interest must allow public access. The specific activities permitted may vary according to the particular nature of a given parcel. On parcels for which funding is sought to acquire a CR, APR, or WPR, public access on some portion of the property is encouraged but not required.
- b. *Not be already permanently protected.* This includes properties protected under Article 97 or other permanent protection, either through an EEA grant program (Local Acquisition for Natural Diversity (LAND), Parkland Acquisition or Renovation for Communities (PARC), Drinking Water Supply Protection, or Conservation Partnership), a M.G.L. c. 184 permanent Conservation Restriction (CR) approved by the Secretary of EEA, or Agricultural Preservation Restriction (APR), a Watershed Preservation Restriction (WPR), or other land protected under Article 97, including municipal conservation, park, agriculture, or water supply land. Lands enrolled in Chapter 61, 61A or 61B are not classified as permanently protected land and are eligible to receive funding.
- c. *Not already be owned by an eligible applicant.* Land held by a municipality for water supply purposes, general municipal purposes, or land owned by an EEA agency, federal environmental agency, or a conservation organization, is not eligible to receive funding. Unprotected municipal land may, at the discretion of EEA, be included in a project as a portion of partners' match, or be included as part of the project acreage, provided it is permanently protected as part of the project. Applicants seeking to use the value of municipally-owned, unprotected land as project match must justify its inclusion.
- d. **Only property interests purchased *after* receiving an executed contract from EEA will be funded.** Properties to be used as project match may be acquired anytime after the Landscape Partnership application deadline, but must be acquired prior to reimbursement payment.

D. Requirements for specific parcels/project types (project types not listed here must still adhere to the general parcel requirements):

- a. ***Conservation Restrictions held by partners other than state agencies:***
 - 1) CRs must be reviewed and approved by the Secretary of EEA prior to recording. Draft CR documents should be submitted separately to Division of Conservation Services for review, no later than two months prior to the anticipated closing date. Information and application available on the DCS website: www.mass.gov/eea/dcs.
- b. ***Water supply parcels:***
 - 1) Existing wells/intakes:
 - a) Parcels must be at least 50% in a Massachusetts Department of Environmental Protection (MassDEP)-approved Zone I, II, III/A, B, or C.
More information: <http://www.mass.gov/dep/water/drinking/wspaglos.htm>
 - 2) Planned future wells/intakes:
 - a) Parcels must be at least 50% in the estimated Zone I, II, or III/A, B, C of planned well/intake; and
 - b) The future well or intake must have been identified as having value for future water supply use through an appropriate planning process. Appropriate processes include direct testing, or locally developed and accepted plans such as: drinking water resource management plan, integrated water resource management plan, regional watershed plan, water assets report, or an analysis of lands utilizing the water assets GIS screening methodology. Documentation of this planning must be

submitted with the application.

c. ***Working Forest Conservation Restriction or Agricultural Preservation Restriction (APR) parcels:***

- 1) Must have a current, forest management plan approved by DCR and be enrolled in the Chapter 61 or 61A program.

d. ***APR parcels:***

- 1) Five or more acres in size;
- 2) Must have been actively devoted to agriculture for the two immediately preceding tax years; and
- 3) Farm or forestry operation must produce at least \$500 in gross sales per year for the first five acres, plus \$5 for each additional acre or 50 cents per each additional acre of woodland and/or wetland.

e. ***Natural Resource Protection Zoning bylaw/ordinance technical assistance:***

- 1) Work must be contracted with a qualified entity outside of municipal government;
- 2) Must have Board of Selectmen/City Council vote in support of the contracted work;
- 3) Must hold a public hearing on a draft NRPZ/OSRD bylaw/ordinance by June 30, 2013;
- 4) Must commit to take the bylaw/ordinance to the local legislative body for a vote by December 31, 2013;
- 5) Must use an area-based formula to determine yield;
- 6) Must require 65-90% of subject parcels to be permanently protected (<80% must be justified); and
- 7) Must apply to all currently undeveloped land outside of existing identified higher density city/town center(s) or other appropriately designated development district(s). See Attachment H for a detailed description of the zoning criteria. *Requests for zoning assistance must be included with an otherwise eligible project; they are ineligible for funding through this program as stand-alone project proposals.*

e. ***Match parcels:***

Gifts of land or acquisitions approved by EEA to be used as partners' match may be acquired outside of the contract period, but not before the grant application deadline. Acquisitions and gifts to be used as match must be completed prior to reimbursement payment.

III. Allowable uses:

Each project has unique characteristics that will guide what activities are appropriate. The specific mix of permitted uses is determined by the project partner(s), with the approval of EEA. Grant recipients must prepare and submit a Baseline Documentation Report and Land Management Plan for each property in which the specific activities to be permitted and prohibited are defined.

Permitted uses: Conservation, passive recreation, agriculture, forestry, water supply protection.

Examples: hiking, biking, swimming in a natural waterbody, hunting, fishing, cross-country skiing, wildlife viewing, information kiosks, community gardens, timber management with approved plan, agriculture, camping.

Prohibited uses: Active recreation or developed uses.

Examples: athletic fields (baseball, soccer, etc.), pools, play structures, municipal-scale wells, golf courses, solar and wind installations (except as permitted under the APR program), jeeps, all-terrain vehicles, recreational utility vehicles, off-highway vehicles, motorcycles, and dirt bikes, encroaching private uses.

Property management and working lands: Limited use of motorized vehicles may be permitted for the purposes of property management and as part of reasonable agricultural or forestry operations.

IV. Article 97 Reminder: Any property acquired with EEA grant assistance is protected open space under Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, dedicated to conservation use. All projects for which grant assistance is provided must be open to all residents of the Commonwealth for appropriate passive recreational use on at least a portion of the parcels. No major alteration of this property, or changes in the proposed uses, can take place without the prior approval of the Secretary of the Executive Office of Energy and Environmental Affairs.

V. Previously developed land, greyfields, & brownfields:

As the primary objective of this grant is to preserve large contiguous areas of undeveloped land, projects may include the acquisition of property that requires undevelopment, remediation, or other restoration, if remediation will eliminate vulnerability and add to the value of adjacent undeveloped land in meeting program goals. Applications that include undevelopment are encouraged. However, properties must be adequately remediated. This will require careful planning and timely action on the part of the project partners to finish by the end of the contract period.

A brownfield is a property where real or perceived environmental contamination complicates redevelopment or reuse efforts. These properties are typically abandoned or underutilized commercial or industrial sites, though other land uses may also be brownfields. In many cases, these sites have been reported to the MassDEP because contamination has been found (to find out, go to <http://db.state.ma.us/dep/cleanup/sites/search.asp>). In other cases, sites may not have been assessed due to insufficient resources or fear of liability for possible contaminants.

A greyfield is a property that is in some state of development that is outdated, underutilized, failing, or vacant. Examples include old parking lots or vacant strip malls.

Developed, previously developed, greyfield, or brownfield sites which the applicant intends to restore are eligible for acquisition under the Landscape Partnership grant program. To be considered, applicants must:

1. If the site has been reported to MassDEP under M.G.L. c. 21E, include in the application a copy of the most recent environmental site assessment report (Massachusetts Contingency Plan (MCP) Phase I or Phase II). These reports are available online and/or are on file with the appropriate MassDEP regional office (locate your regional office here: <http://www.mass.gov/dep/about/regional.htm>). If the site has not been reported to MassDEP, the most recent ASTM Phase I or II site assessment

report may be substituted.

2. Demonstrate ability to complete any remaining required environmental response actions through the submission of a budget outlining sources of assessment/remediation funding and a timeline for completion. If another liable party (e.g., the current owner or a causally-responsible party) will be completing any required response actions after the property is transferred, include any legal agreements to that effect. If selected to receive funding, the applicant must submit a site-specific environmental cost estimate (or MCP Phase III Completion Report including a cost estimate) from a Massachusetts Licensed Site Professional (see <http://db.state.ma.us/dep/lsp/lspsearch.htm> for a list of LSPs).
3. Ensure that the site achieves closure under M.G.L. 21E through either a Response Action Outcome (RAO) or Remedy Operation Status (REMOPS) prior to the end of the fiscal year for which the grant is awarded. Site closure under 21E must precede opening the property to the public. (For text of M.G.L. c. 21E legislation, see: <http://www.mass.gov/legis/laws/mgl/gl-21e-toc.htm>). Remediation must be appropriate for the intended conservation and/or passive recreational use as described in the Project Narrative.
4. Submit a copy of all Activity and Use Limitation (AUL) deed clauses with the RAO. AULs can indefinitely exclude certain land uses based on the level of cleanup attained at a site or portion of a site. If there are AULs associated with the site, the management plan must demonstrate that it accommodates them without significantly compromising public access.
5. **Remediation MUST be completed to the full satisfaction of EEA and DEP.**

Assessment and remediation costs are not eligible for funding under the Landscape Partnership grant program. More information on brownfields, state and federal brownfields grant and loan programs and liability protection is available from MassDEP at: <http://www.mass.gov/dep/cleanup/brownfie.htm>. EEA reserves the right not to fund projects for which site remediation is unsatisfactory.

C. APPRAISAL REPORTS: Applications must include the appropriate type of appraisals with the application, for all project parcels for which funding is sought or to be used as match. Appraisals must clearly break out the value for the interests to be acquired by each project partner. Appraisals may not be contracted by the seller. See Attachment B for detailed appraisal specifications.

Appraisal requirements: The current fair market value of all parcels proposed as part of a project, for receipt of funding or to be used as project match, must be established through an appraisal contracted by one of the project partners. Appraisal requirements vary for parcels for which funding is sought, and those to be used as match.

1. For parcels for which funding is sought:

By October 22, 2012 application deadline: An estimate, dated no earlier than October 22, 2011, of the market value prepared by a Massachusetts-licensed real estate appraiser, adhering to the Uniform Standards of Professional Appraisal Practice, must be submitted for all project parcels. Acceptable forms include the following: full narrative appraisal; limited or restricted use appraisal; opinion of value; or contracted market analysis.

By January 25, 2013 for FY13 awards (July 15, 2013 for FY14 awards): Parcels for which grant funding is sought must submit the appropriate number and type of appraisal as described below.

1. Parcels/interests with an estimated total value of \$50,000 or less:
One self-contained full narrative appraisal, restricted use appraisal, opinion of value, or summary report by a certified or licensed real estate appraiser.
2. Parcels/interests with an estimated value of between \$50,000 - \$750,000:

One self-contained full narrative appraisal by a certified or licensed real estate appraiser.

3. Parcels/interests with an estimated value over \$750,000:

Two self-contained full narrative appraisals or one self-contained full narrative appraisal and one review appraisal by certified or licensed real estate appraisers.

2. For parcels to be used as match:

By April 2, 2013 (April 2, 2014 for FY14 awards): Parcels approved to be used as partner match must submit one self-contained full narrative appraisal, restricted use appraisal, or summary report by a certified or licensed real estate appraiser.

D. EVALUATION CRITERIA: Each application will be scored using the criteria below. See the full application in Attachment A for more detailed description of the following evaluation criteria.

- **Project stewardship and local involvement**
- **Project quality and consistency with program priorities**

A project Selection Committee composed of EEA staff members will review all applications. All projects will be subject to a visit by one or more EEA staff members. After completing preliminary review, site visits, and rating, the Selection Committee will make funding recommendations.

E. FUNDING AVAILABILITY, BUDGETING GUIDELINES & ALLOWABLE EXPENDITURES:

This grant program provides funding for up to 50% of total project costs. The maximum award is \$1,500,000 for any project. Applicants are encouraged to develop projects in which the primary partners are relatively balanced in their commitments and obligations. A single contract may be awarded to project partners as a whole, or, each eligible non-state partner in applications selected for funding may receive a separate contract for its portion of the project. If selected to receive funding under this program, EEA agencies will receive a capital allocation or Inter-Agency Service Agreement (ISA). Decisions to fund projects in excess of 50% of total project costs or the maximum grant award will be solely at the discretion of the Secretary of EEA. Applicants must submit the type of appraisal appropriate for their project, an itemized budget and estimated total project cost, and a specific grant request as part of the application. **Costs incurred prior to contract execution will not be funded.**

Eligible project costs: Costs eligible for reimbursement include all approved eligible project costs incurred on or after a selected Applicant's contract execution date and on or before June 30 of the year(s) for which their project is awarded.

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| - Acquisition (appraised value; if two appraisals the lower value will be used) | - Recording fees |
| - Title search | - Survey or plan of land |
| - Technical assistance to municipalities for development of Natural Resource Protection Zoning (up to \$40,000 per municipality) | - Forest Management Plan |
| | - Baseline Documentation Report (up to \$1,500 per BDR) |
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Ineligible project costs: Costs that are ineligible for reimbursement include, but are not limited to:

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| - Staff salaries | - Chapter 21E compliance fees |
| - Application preparation and submission costs | - Brownfield cleanup costs |
| - Legal fees, except those associated with development of municipal Natural Resources Protection Zoning | - Equipment or goods |
| - Costs incurred before or after contract period | - Appraisal |
| | - CR/APR/WPR long term stewardship |

All contracts shall be subject to available funding, whether through the appropriation and authorization of sufficient funds or the receipt of sufficient revenues. If available funding ceases for any reason, contracted partners will be notified in writing and the contract shall be deemed under suspension and contract performance must halt. A contractor will not be entitled to compensation for any performance provided during the period of contract suspension. EEA may lift the suspension, in writing, if additional funding is received. In the absence of foreseeable available funding, EEA may terminate the contract.

F. BUDGET REQUIREMENT:

Applicants are encouraged to propose projects of any combination and variation, however, they must demonstrate true partnership among the proposed Partners. **All projects must have at least two main partners. These two main partners must each commit to a significant financial, ownership, or facilitative role.** All project proponents must provide a detailed budget for each project component.

Award funding for municipal and non-profit partners will be a reimbursement payment of all eligible costs. Project partners must collectively secure at least 50% of total project costs. Project partners are responsible for raising, borrowing, or otherwise appropriating their share of the project costs. While federal USDA or USDOJ agencies are eligible project partners, and may contribute financial, stewardship, ownership, or facilitative resources, they may not receive reimbursement payment from this grant program.

Eligible sources of project partner match may include, but are not limited to:

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| - Foundation grants | - Non-profit accounts |
| - Municipal land, open space, CPA, or agricultural accounts | - State agency land acquisition funds (allocations outside of this grant); only for state partners |
| - Private donations | - Drinking water protection accounts |
| - Federal agency funds, grants, or loans | - Bargain sale |
| - Natural resources damages settlement funds | - Gifts of land |
| - Other non-state funds approved by EEA | |

Other EEA grant programs, including Local Acquisitions for Natural Diversity (LAND), Parkland Acquisitions and Renovations for Communities (PARC), Conservation Partnership, and Drinking Water Supply Protection, may not be used as sources of partner match.

G. PROJECT TERMS: Awarded projects must abide by the Standard Commonwealth of Massachusetts Terms and Conditions, the EEA Supplemental Terms and Conditions, and/or an Interdepartmental Service Agreement. All contracts are subject to successful negotiation of a Final Scope of Services. EEA does not guarantee that any contracts may result from this RFR, or that any particular funding level will be awarded. It is anticipated that projects could commence when the relevant contract or ISA is executed. The awarded contracts will be reviewed during their course and, upon request by the Contractor, may be extended or otherwise amended at the sole discretion of EEA.

H. ANTICIPATED DURATION OF CONTRACTS: Contracts to acquire real property interests will end on June 30, of the fiscal year for which they are awarded. The end of contracts to develop NRPZ will be established as appropriate at the time of contract negotiations. Extension of a contract is at the sole discretion of EEA.

I. DELIVERABLES, OWNERSHIP, AND CREDIT DUE: Acquisitions resulting from this RFR are subject to various requirements depending upon the partner type, and are detailed below. EEA reserves the right to alter these requirements.

1. ***All project partners and project types:***

- a. All contracted acquisitions of property interests must have a **signed Purchase and Sale agreement on or before March 1, 2013 (July 30, 2013 for FY14 projects)**. Projects that fail to secure a P&S by this time may have their funding commitment withdrawn.
- b. **All due diligence must be completed by April 2, 2013 (April 2, 2014 for FY14 projects).**
- c. **All contracted acquisitions of property interests must occur on or before May 15, 2013 (May 15, 2014 for FY14 projects).**
- d. All project partners receiving funds through this program should retain an interest in some portion of the project properties.
- e. A Baseline Documentation Report (BDR) and Land Use and Management Plan must be completed and submitted to EEA.
- f. State and federal agencies must complete BDRs, but may retain them in their own records.

2. ***Acquisitions by municipalities on behalf of a Public Water Supplier or Fire District:***

- a. Property must be held by the Board of Water Commissioners, or Board of Selectmen authorized as such.
- b. A Project Agreement must be recorded with the deed, CR, WPR, or APR
- c. Successful grant applicants that have purchased real property interests for open space or recreational purposes using money from the Community Preservation Fund must have all conservation restrictions required by Section 12 of Chapter 44B approved by the Secretary of Energy and Environmental Affairs and recorded prior to receipt of project reimbursement from EEA.

3. ***Acquisitions by municipalities for all other purposes:***

- a. Property must be held by the Conservation Commission.
- b. A Project Agreement must be recorded with the deed, CR, WPR, or APR
- c. Use of Community Preservation Act funds requires adherence to CPA regulations, including the conveyance of a perpetual conservation restriction to an appropriate 501(c)(3) organization within the meaning of M.G.L. c. 184. If the municipality acquires a CR, WPR, or APR with CPA funds, a one-half interest must be conveyed to an appropriate organization.
- d. Successful grant applicants that have purchased real property interests for open space or

recreational purposes using money from the Community Preservation Fund must have all conservation restrictions required by M.G.L. c. 44B §12 approved by the Secretary of Energy and Environmental Affairs and recorded prior to receipt of project reimbursement from EEA.

4. ***Acquisitions by non-profit organizations:***

- a. A conservation restriction or encumbered fee interest, with CR retained by the non-profit organization, must be conveyed to the conservation commission of the city or town in which the project is located, or to a state agency, or to a federal agency, or a combination of these.
- b. A Project Agreement must be recorded with the deed, CR, WPR, or APR
- c. For projects in which only a CR, WPR, or APR is acquired, a one-half interest must be conveyed to a government conservation land-holding entity.

5. ***Open Space Residential Design (OSRD) or Natural Resources Protection Zoning(NRPZ) development:***

- a. Municipality must use the model OSRD bylaw developed by EEA and available at: http://www.mass.gov/envir/smart_growth_toolkit/
- b. A public hearing on NRPZ/OSRD must be held not later than **June 30, 2013 (June 30, 2014 for FY14 awards).**
- c. A municipal vote on NRPZ/OSRD must be held not later than **December 31, 2013 (December 31, 2014 for FY 14 awards).**

J. REPORTING:

1. ***Progress report*** – must be completed for all parcels in all funded projects, and submitted by **February 1, 2013 (June 30, 2013 and February 1, 2014 for FY14 awards).**
2. ***Due diligence*** except for appraisals (title certification, 21E environmental site assessment, survey or plan of land) – must be completed by **April 2, 2013 (April 2, 2014 for FY14 awards).** Due diligence must comply with all relevant agency or grant program standards.
4. ***Municipal town meeting or city council vote on NRPZ/OSRD held by December 31, 2013 (December 31, 2014 for FY14 awards)*** – must be submitted by January 31, 2013 (January 31, 2014 for FY14 awards) (projects including NRPZ/OSRD development only).

K. INVOICING: Project partners in applications selected to receive grant funding will be required to submit a Project Agreement, State Standard Contract, or ISA, and billing forms. These will be sent to successful Applicants with their award notification. **Property interests receiving state reimbursement must not be acquired until after a contract or ISA with EEA has been executed.** Only approved expenses incurred during the period of contract, and for which appropriate documentation is submitted are eligible for funding. See also the EEA Supplemental Terms and Conditions.

3. INSTRUCTIONS FOR APPLICATION SUBMISSION

A. APPLICATION SUBMISSION: Applications must be received in hard copy by **Monday, October 22, 2012.** Any application received after the deadline will be rejected. A postmark will not be accepted for verification of date of submission. Applications will not be accepted by fax or email. The outside of the package should be marked RFR ENV 13 DCS 04. Submit one **original** (clearly identified as such) and **two paper copies** of the application to:

Celia Riechel
RE: ENV 13 DCS 04
Executive Office of Energy and Environmental Affairs
100 Cambridge Street – Suite 900

Help reduce waste—print double sided when possible. Use the minimum packaging necessary for good organization.

B. REQUIRED DOCUMENTS: A complete application package includes a completed Application Form and supporting documentation. Applications must include:

1. Application form;
2. Appraisal report(s) (only one copy is required);
3. Project description narrative;
4. Budget, itemized as anticipated, for each project piece;
5. Cover letter signed by an authorized signatory for each applicant organization (eg, chair of the selectmen; president of a land trust; commissioner of a state agency) authorizing the project manager to apply for the grant on behalf of the entity;
6. Documentation in support of specific types of proposed acquisitions (see Section 2B);
7. Maps illustrating project resources and values;
8. CR/APR/WPR draft, or summary of basic rights and uses as anticipated (if applicable);
9. Letter from Natural Heritage and Endangered Species Program (NHESP) indicating the presence or absence of rare and endangered species. <http://www.mass.gov/dfwele/dfw/nhesp/nhesp.htm>. Send request for NHESP review to: Lynn Harper, MA NHESP, 1 Rabbit Hill Rd., Westborough, MA 01581. 508-389-6351, lynn.harper@state.ma.us;
10. Letter from Massachusetts Historical Commission (MHC) indicating the presence/absence of historic or archaeological sites. Do this by submitting to MHC a Project Notification Form (PNF), available here: <http://www.sec.state.ma.us/mhc/mhcform/formidx.htm> ;
11. Most recent brownfield site assessment MCP Phase I or II, or ASTM Phase I or II (if applicable; only one copy is required); and
12. Preliminary brownfield remediation plan and timeline (if applicable; only one copy is required).

See the Application Form for more detail.

C. DOCUMENTATION REQUIRED IF SELECTED TO RECEIVE FUNDING: If an application is selected to receive funding, each non-state project partner seeking funding will be required to submit the following forms to complete a contract:

- Commonwealth Standard Contract Form, filled out and signed by the Respondent;
- Commonwealth Scope and Budget Form;
- Completed Contractor Authorized Signatory Listing (both sides); and
- Landscape Partnership Project Agreement.

Respondents should review the Commonwealth Standard Contract Form, Commonwealth Scope and Budget Form, and Contractor Authorized Signatory Listing prior to submission of a Response, available under the Forms and Terms tab of this Comm-PASS posting, as well as

http://www.mass.gov/?pageID=osdmodulechunk&L=1&L0=Home&sid=Aosd&b=terminalcontent&f=osd_forms&csid=Aosd.

D. APPLICATION STEPS AND PROCEDURES:

1. **Apply:** Applicants file three hard copies of the application with the Division of Conservation Services (DCS).
2. Applicant will be contacted by DCS to schedule a **site inspection**.
3. **Scoring:** Projects evaluated and scored using applicable evaluation criteria. See Attachment B.
4. **Awards announced:** State funds are obligated by the Commonwealth upon execution of contract

documents for approved projects. Applicants not selected to receive funding will receive a brief explanation of why the project was not selected and given recommendations for improvement.

5. **Conservation Restriction review:** projects that involve a Conservation Restriction must have a draft CR reviewed by DCS, unless a state agency is the grantor or grantee. Draft CRs, along with a CR review application form (available on the DCS website: www.mass.gov/eea/dcs), should be sent separately to:

Nicole Sicard
Executive Office of Energy & Environmental Affairs
100 Cambridge St., Suite 900
Boston, MA 02114

7. **Municipal Funding secured (municipal applicants only):**
 - (a) Municipality votes to appropriate, transfer from available funds, expend from its Conservation Fund, or borrow a sufficient amount to meet its contribution obligations. A municipality may vote to borrow funds in anticipation of state or federal reimbursement prior to receiving a grant award (M.G.L. C. 44, §8C). The Conservation Commission must be designated to hold and manage the property for conservation and passive recreation (M.G.L. C. 40, §8c).
 - (b) Communities utilizing accounts funded by the Cape Cod Land Bank Act, other local land bank acts, or the Community Preservation Act, must adhere to the requirements of these funds, and should consult with the Department of Revenue, Division of Local Services, for guidelines.
8. **Contract execution:** State standard contract is signed by project partners and EEA. Execution date is the date on which EEA signs the contract. Agency partners will receive a capital allocation or ISA.
9. **Follow state procurement law:** Municipal and agency recipients must adhere to state procurement laws, M.G.L. C. 30B (Uniform Procurement Act). Municipal acquisition projects fall under Section 16(2)(e), including a requirement for advertising in the Central Register 30 days prior to closing. Communities using CPA funds for the acquisition are exempt from this requirement.
10. **Purchase properties or begin development of municipal Natural Resource Protection zoning:** Municipal applicants may purchase property interests only after having received an affirmative Town Meeting or City Council Vote.
11. **Prepare properties:** Project partners perform preliminary site cleanup as needed, ensure parking and public access are adequate. A sign acknowledging Landscape Partnership Grant Program funding is installed at main entry point(s). Government agencies may use their regular signage, but should acknowledge Landscape Partnership funding.
12. **Submit Baseline Documentation Report and Land Management Plan:** Project partners must prepare a plan detailing the condition of the property at the time of award (after any cleanup or remediation), its uses, recreation and resource values, and long term management plans. EEA must approve the plan. Government agencies may use their established baseline procedures.
13. **Post completion requirements:** Property acquired using Landscape Partnership grant funds is permanently protected conservation land under Article 97. Review the DCS Post Completion requirements on fees, user limitations, prohibition against converting conservation land to any other use, or ownership transfer.

4. DEADLINES AND PROCUREMENT CALENDAR

A. RELEASE OF RFR: August 10, 2012

B. INFORMATION SESSION: Two information sessions will be held in fall, 2012:

Tuesday, September 4, 2012, 2:00 pm
Dept. of Agricultural Resources

101 University Drive, Suite C-4
Amherst, MA

Tuesday, September 11, 2012, 11:30 am

Boston EEA office
100 Cambridge St, 9th floor
Boston

The workshop presentation and answers to any questions received in writing will be posted on the DCS website. It is recommended that prospective applicants attend. Please RSVP at 617-626-1187.

C. APPLICATION DUE DATE: Monday, October 22, 2012

D. ESTIMATED AWARD DATE: Awards for land acquisitions will be announced as soon as is feasible after the grant application deadline, with contract negotiations to begin immediately thereafter.

E. ESTIMATED CONTRACT START DATE: Notwithstanding any verbal representations by the parties, or an earlier start date listed in the Standard Contract Form, and only after an award is issued and a final scope of services has been negotiated, the effective start date of a contract shall be the latest of the following dates: the date the Standard Contract Form has been executed by an authorized signatory of the contractor and the procuring department; the date of secretariat or other approval(s) required by law or regulation; or a later date specified in the Standard Contract Form. The estimated start date for contracts resulting from this RFR is January 2013.

5. MISCELLANEOUS

A. TYPE OF PROCUREMENT: Grant

B. USE OF THIS PROCUREMENT BY SINGLE OR MULTIPLE DEPARTMENTS: This RFR is a single department procurement.

C. REQUEST FOR SINGLE OR MULTIPLE CONTRACTORS: This RFR will result in multiple contracts.

D. RFR DISTRIBUTION METHOD: This RFR has been distributed electronically using the Comm-PASS system. It is the responsibility of every Applicant to check Comm-PASS for any addenda or modifications to an RFR to which they intend to respond. The Commonwealth of Massachusetts and its subdivisions accept no liability and will provide no accommodations to Applicants who fail to check for amended RFRs and submit inadequate or incorrect responses. Potential Respondents are advised to check the “last change” field on the summary page of RFRs for which they intend to submit a response to ensure they have the most recent RFR files. The application and answers to questions will be posted on Comm-PASS and the DCS website at www.mass.gov/eea/dcs.

Respondents may not alter RFR language or any RFR component files. Those submitting a proposal must respond in accordance to the RFR directions and complete only those sections that prompt a Respondent for a response. Modifications to the body of this RFR, specifications, terms and conditions, or which change the intent of this RFR are prohibited. Any unauthorized alterations will disqualify response.

E. LIST OF ATTACHMENTS TO THIS RFR:

A. Application Form

- B. Landscape Partnership program acquisition selection and rating system
- C. Appraisal report requirements – general and detailed
- D. Requirements for use of Community Preservation Act funds in municipal acquisitions
- E. Sample municipal vote for conservation
- F. Guidelines for boundary maps
- G. Landscape Partnership program Policies and Legislation
- H. Natural Resources Protection Zoning/Open Space Residential Design criteria

The EEA Supplemental Terms and Conditions are hereby incorporated into this RFR by reference. They are found under the Forms & Terms tab of this Comm-PASS posting.

**Landscape Partnership Grant Program
APPLICATION FORM – FY2013**

Please print double-sided

I. APPLICANT INFORMATION

Project name: _____

Project partners & contact information

All projects must have at least two project partners with a significant investment, representing at least two of the following categories: municipal conservation commissions, water departments (or selectmen acting as such); or non-profit public water suppliers; non-profit 501(c)(3) organizations whose primary purpose includes land conservation, environmental protection, or recreation; government land agencies, including the state Department of Conservation and Recreation, Department of Agricultural Resources, or Department of Fish and Game, or federal US Department of the Interior or US Department of Agriculture.

Projects that include the development of Natural Resource Protection Zoning (NRPZ) may include the municipal planning commission or department, or board of selectmen acting as such, as a project partner in addition to the two primary partners.

| Partner type | Project partner | Contact name | Contact (address, phone, email) |
|--|-----------------|--------------|------------------------------------|
| Lead – this person will serve as the point of contact for this application, and will be responsible for ensuring all project partners complete their obligations | | | |
| | | | |
| Partner 2 | | | |
| | | | |
| Partner 3 | | | |
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| Partner 4 | | | |
| | | | |
| Partner 5 | | | |
| | | | |

Municipal project partners: attach a letter from the municipal Chief Executive Officer (typically chair of selectboard, mayor, or city/town administrator/manager) indicating that the project contact is authorized to apply for funds through the Landscape Partnership program.

2. PROJECT DESCRIPTION

Projects must include at least 500 acres of contiguous land. They can include multiple tracts or ownerships, and can include additional acres that are contiguous via other permanently protected land (does not include Chapter 61 land).

Total acres: _____ Number of parcels: _____

Project location (municipality/ies): _____

Will this project include the development of Open Space Residential Design (OSRD) or Natural Resource Protection Zoning NRPZ)?

☐ Yes ☐ No

If yes, in which municipalities?

3. Narrative

A narrative description of your project will be used to evaluate the overall scope and quality of your proposed project. The questions in subsequent application sections cover standard metrics of natural resource values, such as Biomap2 and soils classification; the narrative is an opportunity to discuss the importance and quality of the project not captured by these measures. Attach a description of not more than four pages that addresses the following:

- Why should this landscape be protected by this grant program?
- What are the ecological characteristics and natural resources of the project, as a whole, and each constituent part? How are they threatened?
- How will this project protect and support rural natural resource economies?
- Is this project located in an area identified as important to climate change adaptation?
- What role will each of the project partners play?
- What are the interests to be acquired for each parcel, who will hold them?
- How will the long-term stewardship of project parcels be ensured?
- What is the anticipated use of each parcel?
- Where and what kind of public access is envisioned?
- If project includes a greyfield, brownfield, or former developed site, how will it be remediated?
- What is the project timeline?

Reminder: Due diligence must be completed by April 2 of the year in which the project is awarded.

All acquisitions must be completed by May 15 of the year in which the project is funded.

- Will this project include assistance to the municipality or municipalities in which it is located to develop Natural Resources Protection Zoning/Open Space Residential Design?
- What other sources of funding do you have, or are you seeking?
- Are there any additional project partners that are contributing in ways other than acquiring property?

B. Project details

Complete a parcel information sheet for each parcel or project component. A single parcel information sheet may be used in instances where one partner is acquiring the same interest in multiple adjacent/subdivided lots currently held under a single ownership.

Parcel Information

Parcel/component # _____

Complete a parcel information sheet for each parcel or project component. A single parcel information sheet may be used in instances where one partner is acquiring the same interest in multiple adjacent/subdivided lots currently held under a single ownership.

Municipality: _____

Acres: _____

Assessor's map/lot number: _____

Current owner: _____

Address: _____

Is there a recent survey available for the parcel? ☐ Yes ☐ No

Zoning: _____

Present/past use: _____

Is the property currently enrolled in:

☐ Chapter 61 or 61A ☐ Forest Stewardship Program ☐ Forest or Farm Viability program

Will active forest management or agriculture continue or begin *after* the acquisition?

☐ Yes ☐ No

Proposed use: _____

Zoning: _____

Are there structures on the parcel? ☐ Yes ☐ No

For fee acquisitions only: if yes, list structures, estimated value, current and planned use. This program is intended to preserve undeveloped land, not to purchase buildings. Buildings not intended to serve conservation purposes are not eligible for grant funding; their value should be subtracted from the subject property.

Will this project involve the rehabilitation of a greyfield, brownfield, or developed site?

☐ Yes ☐ No

If yes, has a MCP Phase I or II, or ASTM Phase I or II site assessment been completed?

☐ Yes ☐ No

Attach a copy of the most recent site assessment, indicating the nature of the contamination and the remediation required for proposed use. Include in the Project Description a discussion of the importance of remediating the site, the plan for remediation, clear identification of disbursement of liability (e.g., will the town take it or will it reside with the current owner?), and any specific stewardship that will be undertaken to ensure that the site does not in the future pose undue risk to the public. Provide a remediation timeline that includes funding sources.

Will public access be allowed on this parcel? ☐ Yes ☐ No

Note: all projects must allow public access on at least some portion of some parcels.

If public access will be allowed:

Does property have frontage on a street? ☐ Yes ☐ No

Name of street(s): _____

If no street access, describe how the public can access the property through adjacent landholdings:

Project partner: _____

Interest to be acquired: ☐ Fee ☐ CR ☐ APR ☐ WPR ☐ Multiple interests

If multiple interests, describe: _____

2nd project partner (if applicable): _____
Interest to be acquired: ☐ Fee ☐ CR ☐ APR ☐ WPR ☐ Multiple interests
If multiple interests, describe: _____

Acquisition and funding details

Appraisal Report #1

Interest _____
Valuation \$ _____
Appraiser _____
Valuation Date _____

Appraisal Report #2 (if land valued at over \$750,000)

Interest _____
Valuation \$ _____
Appraiser _____
Valuation Date _____

Acquisition details:

Negotiated Sale: ☐ Yes ☐ No
Do you have a Purchase & Sales Agreement or Agreed Price? ☐ Yes ☐ No
If yes, amount: \$ _____
Have you conducted a title examination? ☐ Yes ☐ No
Is clear title available? ☐ Yes ☐ No ☐ Don't know yet
If no, is an eminent domain taking anticipated? ☐ Yes ☐ No
If yes, proposed pro tanto award amount: \$ _____

*If clear title is not available, the applicant may decide to acquire the property by a friendly taking (eminent domain) process to clear the title. It is best to know if there is a potential title problem as soon as possible since this can complicate the acquisition process.

Funding request:

Funding may be a reimbursement or deposited into a short-term, non-interest-bearing account to be used for the acquisition only. Only eligible costs for which appropriate documentation is provided will receive funding payments. Costs incurred prior to grant approval and/or contract execution will not be funded. Federal partners are not eligible to receive reimbursement funding. See section 2E in RFR for eligible expenditures.

Estimated cost, this parcel/interest: \$ _____
Funding request, this parcel/interest: \$ _____

For municipal acquisitions:

Do you have town meeting vote/city council approval? ☐ Yes ☐ No
If not, what is the date for the vote? _____

Note: project must have municipal authorization by December 31, 2013 (December 31, 2014 for FY14 awards).

Attach a copy of the vote, or draft language.

3. PROJECT QUALITY

Check appropriate answer. You must provide supporting documentation.

Landscape conservation:

Total project area: _____ acres

How much permanently protected open space does the project directly abut? _____ acres

Biodiversity and resource protection:

How many acres of the project lies within MA Natural Heritage and Endangered Species Program (MNHESP) BioMap2 Core Habitat:

_____ acres

How many acres lie within MNHESP BioMap2 Critical Natural Landscape:

_____ acres

Water resources:

How many acres are located within 500 feet of the ocean, a lake, pond, river, stream, or wetland?
_____ acres

How many acres are located within a drinking water supply area for existing or planned public water supplies (Zone I or II, Zone A or B), or Interim Wellhead Protection Area (IWPA), or, are located over a sole-source, medium-, or high-yield aquifer?

_____ acres

List aquifer or PWS ID#: _____

Working lands:

How many acres of the project (including match parcels) are *currently* actively managed for forest or agricultural products (forests: using a licensed forester)?

_____ acres

How many acres of the project (including match parcels) *will be* actively managed for forest or agricultural products (forests: using a licensed forester)?

_____ acres

How much of the project has Prime, State, or Locally Important agricultural or forest soils?

_____ acres

How many employees work on actively managed parcels (may include recreation)?

Currently: _____ Full-time equivalent (FTE) employees

Estimated, after project completion: _____ FTE employees

Recreational opportunities:

What public recreational opportunities will this project provide? Check all that apply.

Recreational opportunities will be verified by DCS during the site visit.

- ☐ Trail-based activities (ex. hiking)
- ☐ Wilderness activities (ex. camping, hunting)
- ☐ Water-based activities (ex. canoeing, swimming, fishing, skating)

4. BUDGET

A. Proposed budget: Show primary budgeted activities and matching funds. The minimum match for the project as a whole is 50:50, however, individual project components may be reimbursed at a higher or lower rate. Landowner bargain sales and gifts of property may be used as part of project partner's share of funds.

Parcel/project component # ____ (should match Parcel Information sheet #):

| Expense | Partner involved | Partner's share | EEA share | Total cost |
|---|------------------|-----------------|-----------|------------|
| Parcel/project component # ____ (should match Parcel Information sheet #): | | | | |
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| Parcel/component total and reimbursement request | | | | |
| Parcel/project component # ____ (should match Parcel Information sheet #): | | | | |
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| Parcel/component total and reimbursement request | | | | |
| Parcel/project component # ____ (should match Parcel Information sheet #): | | | | |
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| Parcel/component total and reimbursement request | | | | |
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| Parcel/component total and reimbursement request | | | | |
| Parcel/project component # ____ (should match Parcel Information sheet #): | | | | |
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| Parcel/component total and reimbursement request | | | | |
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| Parcel/component total and reimbursement request | | | | |
| Municipal OSRD planning | | | | |
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| Component total and reimbursement request | | | | |
| TOTAL PROJECT COST & FUNDING REQUEST | | | | |

4. Funding sources

List all other sources of funding and indicate their certainty. Sources may include, but are not limited to, municipal accounts, non-profit fundraising, agency land acquisition fund, federal grants, landowner bargain sales, or gifts of lands.

| Funding source | Project partner recipient | Amount | Secured or pending? |
|---|----------------------------------|---------------|----------------------------|
| Parcel/project component # ____ (should match Parcel Information sheet #): | | | |
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| Parcel/project component # ____ (should match Parcel Information sheet #): | | | |
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| Total project funding secured | | | |
| Total project funding secured & pending | | | |

5. A COMPLETE APPLICATION INCLUDES THE FOLLOWING DOCUMENTATION:

1. **Application form**
2. **Appraisal reports.** Applications lacking the correct number and type of appraisal reports will be disqualified. See Section 2C of the RFR for details.
3. **Project narrative**
4. **Budget details**, itemized as anticipated for each project piece
5. **Cover letters** signed by an authorized signatory for each partner organization authorizing the project manager to apply for the grant on behalf of the entity, and committing to complete the project if awarded a grant.
6. **Documentation in support of project quality** evaluation (eg, evidence of enrollment in Ch. 61/61A; forest management plan; documentation of number of people employed; documentation of planned public drinking water source, etc.)
7. **Maps** of values and resources protected, proximity to other conservation lands; plot plans or survey maps. Include the location, acreage, ownership and use of other protected open space abutting the project. Show current use of adjacent private lands.
8. **Draft CR, APR, or WPR** documents, or summaries
9. **Other state agency review** – Include documentation of the value of your project for rare species and historic value by contacting the following state agencies and requesting their review:
 - Massachusetts Natural Heritage and Endangered Species Program (<http://www.mass.gov/dfwele/dfw/nhosp/nhosp.htm>).
 - Massachusetts Historical Commission: Send the MHC a PNF (<http://www.sec.state.ma.us/mhc/mhpdf/pnf.pdf>) with a photocopy of the USGS locus map with the property boundaries clearly indicated, smaller-scale property maps if available, and a cover letter to include information about any known historic or archaeological sites. Send this certified mail, return receipt requested, so that you know when it was received. MHC will review and comment to DCS (and copy the applicant) within 30 days of receipt. There is no

need to telephone or email the MHC. See these websites for any questions:

<http://www.sec.state.ma.us/mhc/mhcpdf/pnfguide.pdf> and

<http://www.sec.state.ma.us/mhc/mhcrevcom/revcomidx.htm>.

10. **Brownfields:** If the property to be acquired is a brownfield site, the applicant should submit documentation of the nature of contamination, the type of remediation required, and an estimate of the cost and time required for remediation. This should include a map of contaminant locations. Massachusetts Department of Environmental Protection maintains a database of known, current, waste sites and pollutant releases at <http://db.state.ma.us/dep/cleanup/sites/search.asp>. A more detailed, site-specific environmental cost estimate (or MCP Phase III Completion Report including a cost estimate) from a Massachusetts Licensed Site Professional will be required if a project is selected to receive funding (see <http://db.state.ma.us/dep/lsp/lspsearch.htm> for a list of LSPs). Applicants must prove that the site has achieved closure under MGL 21e by submitting either a Response Action Outcome (RAO) or Remedy Operation Status (REMOPS) prior to the end of the fiscal year of the award, before payment will be made. If an Activity Use Limitation (AUL) deed clause is part of the RAO, a copy must also be submitted and approved before payment.

6. SIGNATURES

Applications must be signed by a representative of each partner organization.

Preparer

Print Name

Date:

Organization

Project partner

Print Name

Date:

Organization

Project partner

Print Name

Date:

Organization

Project partner

Print Name

Date:

Organization

Project partner

Print Name

Date:

Organization

Project partner

Print Name

Date:

Organization

Attachment B: Landscape Partnership project evaluation system

A project selection system is used to evaluate projects for funding decisions. The selection system includes a review of each project and draft ratings and funding recommendations by a grant review committee. The rating system considers partnership and project quality factors in order to identify for funding those projects that best meet the objectives of this program.

In reviewing applications for land acquisition and developing funding recommendations, the grant review committee considers:

1. Partnership and stewardship

- Municipal involvement and local support
- Provision of long-term stewardship of project
- Municipal assistance for development of Open Space Residential Design (OSRD), or Natural Resources Protection (NRPZ), or, already in place.

2. Project Quality

- Landscape Conservation: size of the acquisition and its proximity to other protected open space
- Biodiversity and Resource Protection: subject property located within or abuts BioMap2 Core or Critical Natural Landscape, or priority habitat, as identified by the MA Natural Heritage and Endangered Species Program
- Water Resources: frontage on the ocean or estuarine habitats; frontage on lakes, ponds, rivers; recreational utility, and protection of drinking water supplies
- Working Lands – active and continued management for forestry or agricultural purposes.
- Provision of jobs in agriculture, forestry, or related natural-resource fields
- Provision of passive recreational opportunities
- Restoration of ecological function to former developed or brownfield site

SELECTION NOTES:

Preservation of Agricultural Land

Executive Order #193 discourages the irreversible conversion of the Commonwealth's productive agricultural land base. State Grants shall not be used to encourage the irreversible conversion of agricultural land to other uses when feasible alternatives are available. In the event that all feasible alternatives have been explored, and the conversion of suitable agricultural lands to non-agricultural use remains the only feasible alternative to protection of open space, a mitigation plan must be developed to be eligible for funding under a state grant. Projects which would convert any prime agricultural lands should consult with the Department of Agricultural Resources at (617) 626-1700 prior to submitting an application.

Rating System for Landscape Partnership Projects

| CATEGORY | | Description | | | | | | | | | | | Points |
|---------------------------------------|--|-------------|--|--|----------------------------|--|-----------------------------|--|--------------|--|--|--|--------|
| PARTNERSHIPS AND STEWARDSHIP – 25 pts | | | | | | | | | | | | | |
| Local support | Project includes a municipal partner: No Yes 0 5 | | | | | | | | | | | | 5 |
| Stewardship | Project includes an endowment or other mechanism to provide for long-term CR stewardship Percentage of project acreage with long-term stewardship: <50% 50-59% 60-69% 70% or more 0 3 4 5 | | | | | | | | | | | | 5 |
| Planning | Project includes a request for funding in partnership with the municipality/municipalities in which the project is located, for technical assistance to develop an OSRD/NRPZ bylaw, or is already in place. Yes: 15 No : 0 | | | | | | | | | | | | 15 |
| PROJECT QUALITY – 75 pts | | | | | | | | | | | | | |
| Landscape Conservation | Total project acreage: 500-549 550-599 600-649 650-699 700+ 0 2 3 4 6 | | | | | | | | | | | | 8 |
| | Acres of permanently protected open space directly abutting project: <500 500-899 900+ 0 1 2 | | | | | | | | | | | | |
| Biodiversity and Resource Protection | Project acres within NHESP BioMap2 Core Habitat: 1-49 50-100 100-149 150-199 200+ 1 4 6 8 10 | | | | | | | | | | | | 20 |
| | Project acres within BioMap2 Critical Natural Landscape: 1-49 50-100 100-149 150-199 200+ 1 4 6 8 10 | | | | | | | | | | | | |
| Water Resources | Project acres within 500 ft of Ocean, Lake, Pond, River, Stream, Wetland: 1-49% 50-99 100+ 2 3 5 | | | | | | | | | | | | 10 |
| | % of Project in drinking water supply area (Zone I/II, A/B; IWPA), or, med- or high-yield, or sole-source aquifer: <5% 5-24% 25-49% 50% or more 0 1 3 5 | | | | | | | | | | | | |
| Working Lands | Acres that are currently actively managed (forest: using a licensed forester): 250-299 300-399 400-499 500+ 1 3 4 5 | | | | | | | | | | | | 20 |
| | Acres that will be actively managed (forest: using a licensed forester), after project completion: Same as before ≥10% fewer 10-19% more ≥20% more 2 - 3 (unless ecologically justified) 4 5 | | | | | | | | | | | | |
| | Acres in project that have Prime, State, or Locally Important agricultural or forest soils: 10-99 100-199 200-299 300+ 1 2 3 5 | | | | | | | | | | | | |
| | How many FTE employees currently work in forest or agricultural operations on project parcels? 1-2 3-4 4-6 6-8 >8 0 2 3 4 5 | | | | | | | | | | | | |
| Recreational Opportunities | Recreational opportunities provided (checked on site visit.): ≥50% acres /substantial = 1; <50% or marginal = 0.5 | | | | | | | | | | | | 3 |
| | Activity | | | | 50%+ project / substantial | | <50% of project or marginal | | Not provided | | | | |
| | Trail-based (hiking, etc) | | | | | | | | | | | | |
| | Wilderness (camping, hunting, etc) | | | | | | | | | | | | |
| | Water-based (canoeing, skating, etc) | | | | | | | | | | | | |
| Community revitalization | Project will restore ecological function to a former developed or brownfield site: Yes No 3 0 | | | | | | | | | | | | 3 |
| Overall project quality | Poor Average Good Very Good Excellent 0 1 2 3 4 5 6 7 8 9 10 11 | | | | | | | | | | | | 11 |
| TOTAL | | | | | | | | | | | | | 100 |

Attachment C: Appraisal Report Requirements

BASIC REQUIREMENTS

If your project involves an acquisition, Appraisal Reports are absolutely critical to its success. The subject property must be appraised in accordance with Division of Conservation Services requirements by a qualified, independent and disinterested appraiser. Reports done for the owner, or paid for by the owner, cannot be used. The Report(s) must be submitted along with the preliminary application by the grant round application deadline.

1. **Type of Appraisal Report Required:** The following conditions determine the number and type of appraisals required.
 - a. for acquisitions with appraised values of \$750,000 or more, two appraisals by real estate appraisers certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, are required, of which one may be a review appraisal;
 - b. for acquisitions with appraised values of less than \$750,000 but more than \$50,000, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, is required; and
 - c. for acquisitions of \$50,000 or less, one appraisal by a real estate appraiser certified or licensed pursuant to M.G.L. c. 112, and dated no earlier than a year prior to the date of execution of the acquisition agreement or conveyancing documents, or one contracted market analysis, or one contracted opinion of value is required, subject to the discretion of the Director of the Division of Conservation Services.

A full narrative appraisal is a comprehensive analysis, substantiated by documented market data, of the value of a property. Full appraisals must be bound, in book-fashion, in the left margin, in a durable cover with an identification of the property on the cover page. The paper must be a good grade bond of size 8 1/2"x 11". All pages must be numbered consecutively, including all exhibits, and each important heading must be shown in the Table of Contents. In short, this is not the brief estimate typically done by a lending institution when a home is refinanced.

2. **The Appraiser's Scope of Practice:** The appraiser must be licensed and/or certified by the Massachusetts Board of Registration of Real Estate Appraisers, and have the appropriate license or certification for the type of land that is appraised. Often the project will require a state certified general real estate appraiser. The following is an excerpt from the state regulations for the Board of Registration of Real Estate Appraisers:

264 CMR 6.01: Scopes of Practice

(1) State-Licensed Real Estate Appraisers. *State-licensed real estate appraisers may appraise:*

- a. *non-complex one-to-four unit residential properties having a transaction value of less than one million dollars (\$1,000,000) and complex one-to-four unit residential properties having a transaction value of less than two-hundred fifty thousand dollars (\$250,000);*
- b. *vacant or unimproved land that is to be utilized for one-to-four unit residential properties, and where the highest and best use is for one-to-four unit residential purposes; and,*
- c. *properties as specified by the FFIRAS.*

State-licensed real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

(2) State-Certified Residential Real Estate Appraisers. *State-certified residential real estate appraisers may appraise:*

- a. *residential properties with one-to-four units and complex one-to-four unit residential property both without regard to transaction value;*
- b. *vacant or unimproved land that is to be utilized for one-to-four unit residential use and where the highest and best use is for one-to-four family unit residential purposes; and,*
- c. *properties as specified by the FFIRAS.*

State-certified residential real estate appraisers may not appraise subdivisions wherein a development analysis/appraisal is necessary and utilized.

(3) State-Certified General Real Estate Appraisers. *State-certified general real estate appraisers may appraise all types of non-complex and complex real property both residential and non residential.*

Regulatory Authority: 264 CMR 6.00: M.G.L. c. 13, s. 92; M.G.L. c. 112, §. 173-195.

3. **Common Comparable Sales Problems:** Reports usually contain comparable sales and the examples offered should be just that: comparable. The locations should be similar, preferably the same municipality. If they are not, the narrative must explain why that particular sale is still comparable. The highest and best use and market situations of the comparable sale should be the same as the subject property. These sales must also represent arms length transactions – generally municipal transactions are not arms length.
4. **Common Valuation Problems:** The highest and best use must reflect a market situation, and typically "open space" or "conservation" is not a marketable situation. If the subject property cannot support development, perhaps it would be attractive to abutters who wish to add to their own holding (assembly), or the property may have some timber value, or if the property is part of a larger parcel, a before and after value is warranted. Any restrictions placed in the deed by the grantor (seller) can possibly lower the value of the property.
5. **Complicated Circumstances:** Appraisals must be analytical narrative reports following current professional appraisal standards. All components of the report such as introductory and supporting data, valuation analysis, limiting conditions, and certifications must meet these standards. If necessary, the Division of Conservation Services will furnish supplementary specifications which delineate additional required data in the appraisal of highly specialized properties or properties to be acquired under unusual circumstances.
6. **Eminent Domain Taking:** The Municipality must notify the Appraiser if an eminent domain taking is contemplated or a possibility. All grant program participants must provide for fair and equitable treatment of persons and businesses to be displaced as a result of the acquisition. Participants must abide by the requirements of M.G.L. c. 79A or c. 80A (both pertain to eminent domain takings), as amended.
7. **Review Appraisal:** When, in the opinion of the Director of the Division of Conservation Services, the value of the property remains in doubt, further appraisals may be required to reach a value conclusion. The resolution of value may be accomplished through the performance of entirely new appraisals or through the engagement of an appraiser as qualified above for the purpose of reviewing existing appraisal reports and certifying a final value conclusion.
8. **Reports must be submitted by the grant round deadline.** However, if DCS requires report corrections, revisions, or review appraisals, they may be submitted after the deadline.
9. **Reports must be written for the applicant partner(s).** Appraisals must include the project partner(s) as a client, and cannot be paid for, or obtained by, the owner.
10. **Special Note for appraisals submitted as part of a conversion proposal.** These Reports must value the converted property under a hypothetical situation: *as if the property were developable*, unencumbered by any conservation or recreation restrictions.

Sources And References

These appraisal specifications are based on material from the following sources:

1. EEA Land Acquisition Policy – Appraisals dated September 1, 1995.
2. Uniform Standards of Professional Appraisal Practice

DETAILED APPRAISAL REPORT REQUIREMENTS

I. INTRODUCTION

- A. Title Page: Each Appraisal Report must include: (a) the name of the Municipality (client) for which the Report was prepared, (b) the name and street address of the property, (c) land area of the property (d) the name and street address of the owner(s), (e) the name of the individual making the report, and (f) the effective date of the appraisal.
- B. Table of Contents – List all essential items in the report.
- C. Certificate of Value – See Exhibit I.
- D. Summary of Important Facts and Conclusions
- E. Photographs
- F. Statement of Limiting Conditions and Assumptions: Each Appraisal report should set forth the limiting conditions and assumptions made by the Appraiser in preparing the report. If there is a discrepancy in description, acreage, frontage, or other factual data, the Report should note which description, amount or measurement is being used in calculating the final value.

II. FACTUAL DATA

- A. Purpose of Appraisal: Include a statement of the reasons for the appraisal, a definition of the appraisal problem and a description of the property rights being appraised.
- B. Legal Description and Title
- C. Area, City and Neighborhood Data: Include the area, city and neighborhood data, including area or location maps (such as the United State Geologic Survey topographic map) and indicate the location of the subject property. Include a general description of the city or town, the section of the community, and the actual area surrounding the property. This section should also include a discussion of the town's or city's attitude toward development, and upon what information any conclusions are based; whether the town or city has a Master Plan; the population trends in the community, and reasons for such trends. This data should be kept to a minimum and related to the valuation problem at hand.
 - 1. Favorable and Unfavorable Factors: List and discuss favorable and unfavorable factors affecting the property, such as transportation, major industries, shopping centers and recreation areas. Any hazards or nuisances which affect the subject property, such as obnoxious facilities, smoke, smell, noise and traffic, should be thoroughly discussed. Indicate the factor's location and relationship to the property as well as its effect upon market value.
 - 2. Real Estate Market Conditions: Discussion of current real estate market conditions affecting the area, including supply and demand factors. Mention the specific type of property being appraised, along with future indicated trends and the extent to which those trends affect the value of the property. Also include data on the number of lot sales, and, if available, bona fide building permits issued in the past three to five years, and those pending, for the type of development or construction starts within that three to five year period.

III. PROPERTY DATA:

The data collected by the Appraiser should be as comprehensive as possible, and be acknowledged and related to the Appraiser's determination of Highest and Best Use and final value conclusions.

- A. Site - describe the property's location; current use(s); access (public or private road, paved or unpaved); adequacy of access for subdivision purposes; area; shape; extent of road frontage; buildings; presence and location or absence of utilities; topography; soils and sub-soil conditions; porosity of soils/adequacy of drainage; availability of town sewer (if none, whether soil will percolate); presence or availability of potable water, and whether current or proposed uses may cause contamination of sources of drinking water or wells on or near the property; merchantable forests; extent of water frontage; scenic views; wetlands or floodplain, aquifer recharge districts, or any other environmental constraints. Any history of the site, or physical characteristics, which might indicate its use for disposal or storage of known hazardous or potentially hazardous materials must be indicated. In the case of a partial acquisition, the report should similarly describe the remainder property, including any limitations or enhancement caused by the acquisition of the subject property. Describe any Massachusetts General Laws Chapter 61 (forest land), Chapter 61A (agricultural and horticultural land) and 61B (recreational land) encumbrances which have been

placed on the property. Include the existence and extent of any easements, rights of way and/or other encumbrances (including conservation, agricultural, or other preservation restrictions or easements) which appear of record and/or on the ground. Investigate the likelihood of existence or non-existence of loam, peat moss, water, timber, gravel or mineral deposits on the subject property. If it is determined that such materials exist, determine whether there is a demand or market for the material(s). If so, indicate whether a permit to extract or remove these materials has been issued, or the likelihood of issuance or denial of a permit if applied for. If a permit is not necessary, or has been issued, or issuance would be likely, determine the enhancement value these materials bring to the subject property, if any, by use of the comparable sales method. The presence, absence or value of such materials need not be investigated when the appraisal assignment is for a partial interest in the property which does not include rights to these materials.

- B. Site Conditions and Improvements - Include a description of site conditions and/or improvements by narrative or list form. Such conditions and improvements may include buildings or other structures, foundations, ruins, archeological sites, cemeteries, quarries, dams, and water or flood control devices. If measurable, include dimensions, and cubic or square foot measurements of such conditions and improvements. Where applicable to determination of highest and best use, determine the rentable areas on site (including a statement of the method of measurement used in determining rentable areas), and the fair market rental value of such areas. Also note evidence or likelihood of existence of hazardous materials or waste on the site. Where so noted, the Appraiser must immediately notify the Municipality.
- C. Equipment - Where the highest and best use of the subject property is for a special purpose (for example, as a downhill ski facility, golf course, or camp), include a description of equipment appurtenant to the appraised premises by narrative or list and include all items of equipment. The current physical condition and relative use and/or obsolescence should be stated for each item or group of equipment described, and a final value estimate of each item or group determined. When repair or replacement of the equipment is necessary to bring the equipment to a usable condition, an estimate of the costs for doing so should be provided. Any related personal equipment, such as tenant trade fixtures, which are not attached or considered part of the realty must be separately inventoried by the Municipality. Where applicable, these detachable or individually owned items must be separately valued by the Appraiser.
- D. History - State the history of the use or uses of the property. Include any evidence of prior use of the property for storage, use or disposal of hazardous wastes or materials. Where applicable, describe the purpose for which improvements were designed, dates of original construction and major renovations and/or additions. Show all transfers of the appraised property for the past ten (10) years, including sales; the sale price, if listed; leases; and, if known, offers to buy or sell. If there have been no transfers within the past ten (10) years, the Report should so state, and include a report of the last sale.
- E. Assessed Value and Annual Tax Load - Include the assessor's map and parcel number for the property, a copy of the assessor's map, and the current assessment and dollar amount of real estate taxes. Also include assessments for the five previous years and comment on consistency of assessments, practices and procedures. Assessments for land and structures should be listed separately. If the property is registered under Chapter 61, 61A or 61B, the report must include the full assessment and tax as well as the reduced assessment and tax. If the property is not taxed, estimate the assessment as if the property were subject to taxation, state the rate and give the dollar amount of the tax estimate.
- F. Insurance - If the Appraiser determines value by the income approach then the Appraisal Report should present the estimated rate per thousand and the annual cost of adequate insurance coverage (not necessarily present coverage).
- G. Public Land Use Controls: The Appraiser should make an exhaustive review of laws and regulations that affect the subject property and acknowledge and relate them to the Appraiser's final value conclusions.
 - a. Zoning - Include, as an exhibit or in the addenda, a copy of the applicable sections of the zoning regulations in effect as of the date value is certified, and the date on which the regulations became effective. Describe the zoning for the subject property and for comparable properties; and reveal whether the zoning regulations allow pork chop lots, cluster developments, condominiums, cooperatives or other alternative development approaches. Indicate whether limited development options would enhance value where, for example, higher lot values for buildable land result if non-buildable land is designated as permanent open space, or where a greater net value results from sales of oversized lots utilizing only existing street frontage. If the subject property is not zoned, state what the zoning would be under private ownership. If rezoning is imminent, the

background and status of the matter should be described. Also indicate the likelihood of issuance of a variance or approval of a change in zoning where such a variance or change could affect the Highest and Best Use of the subject property. The Appraiser should not unduly speculate; any conclusion that a zoning change may occur or variance would be issued must be clearly supported and explained.

- b. Subdivision Rules and Regulations - Where Highest and Best Use of the subject property is deemed to be a subdivision, relevant sections of the current local Subdivision Rules and Regulations must be cited, and copies provided (showing date on which they became effective) including: class of roads, width of rights of way, width of paved surfaces, slope limitations, dead-end road limitations, utilities requirements, sight-stopping distances, intersecting curve radii, and cul-de-sac radii.
- c. Wetland Regulations - If the property is potentially subject to the jurisdiction of the United States Rivers and Harbors Act (33 USC Section 404); the Massachusetts Wetland Protection Act (MGL Chapter 131, Section 40); the Massachusetts Wetlands Restriction Act (MGL Chapter 130, Section 105); or a city or town wetlands by-law, the areas within their jurisdiction and the activities regulated thereby must be discussed, and their impact on the valuation of the subject property determined.
- d. Flood Plain Regulations - If the subject property lies in any federal flood hazard district, a flood plain map must be included showing the relationship of the subject property to the district, and the impact on the valuation of the subject property.
- e. Water Resource or Aquifer Protection Districts - If the subject lies in a water resource or aquifer protection district, a map must be included showing the relationship of the subject property to the district, together with a description of the regulations and their impact on the value of the subject property.
- f. Other Overlay or Floating Zones - The Appraiser should investigate whether other overlay districts or protective zones have been created which may impact the subject property, and determine their effect upon its value.
- g. State Sanitary Code (title 5)/Board of Health Regulations If the Appraiser has reason to believe that all or part of the subject property is suitable for development and there is no municipal sewer available to the site, the Appraiser should investigate the local regulations concerning minimum standards for placement and capacity of septic systems, as well as the acceptable percolation rate. If percolation tests are not performed on the site, the Appraiser should submit soil survey maps of the site and identify the types of soils found. If soil maps are not available, or if the Appraiser has concluded the highest and best use of the subject does not include development, a report from a soil scientist is required to indicate (a) the types of soils found on the subject property, (b) whether the site is capable of supporting operational septic systems, and (c) limitations, if any, of the soil types found on the property. If sewer is available to the subject, or if the property may or must connect to sewer, the Appraiser should investigate and report whether new connections to the system are being accepted; whether any regulations or phasing in hook-ups control new connections; whether the town system has sufficient capacity, or sufficient capacity is planned or expected, and within what timeframe.

IV. ANALYSIS AND CONCLUSIONS

- A. Highest and Best Use: The Report must state the Highest and Best Use or combination of uses that can be made of the property (land and improvements) for which there is a current market. The analysis should include a discussion of other logical uses considered and the reasons why the property being appraised lends itself to the selected use. If the Highest and Best Use is different than the present use, the Appraiser should discuss how the property being appraised is available, suitable, adaptable and in demand for the new use. The valuation should be based upon the stated Highest and Best Use. If the Highest and Best Use is based on a zoning change, variance, special permit or subdivision plan approval, the Appraiser should have concluded that there is a substantial likelihood that the required zoning relief would be granted and the Appraiser should set forth the basis of that opinion in the Report. In the event of a partial acquisition or taking, the Highest and Best Use of the remaining portion of land should be stated, including the reasons

why the Highest and Best Use remains the same or has changed by virtue of said partial acquisition. This determination must be undertaken in conformance with a Highest and Best Use analysis described herein.

B. Value Estimate by Market Approach: This section of the Report should determine market value of the subject property according to the following analyses.

a. Direct Sales Comparison - The Appraiser's opinion of the value of the land must be supported by confirmed sales of comparable, or nearly comparable lands having like optimum uses. In general, a minimum of five comparable sales is required. In special circumstances, however, a lesser number may be used. Where a lesser number is used, acceptable reasons must be given why other comparable sales are not available. No comparable sales should be used which are older than three years, except under unusual circumstances, which circumstances should be fully explained in the Report. All comparable sales used must be personally inspected and photographed by the Appraiser and should be confirmed by the buyer, seller, broker, or other person having knowledge of the price, terms and conditions of sale, and the Report should indicate by whom confirmation was given. Include these references in the Report addenda. The following information and steps must be included:

- i. A summary of comparable sales (lots and acreage) and perimeter sketches (include in Addenda);
- ii. A map showing the location of the comparable sales (and the subject property, if appropriate);
- iii. A table or chart showing all relevant adjustments, including changed market conditions, or time. Care should be taken to qualify sales of improved property to eliminate price increases or decreases due to exceptional additional, renovation, rehabilitation, casualty or depreciation of the improvements; and
- iv. A discussion in detailed, narrative form, discussing such factors as:
 - time
 - location (desirability, view, etcetera)
 - zoning and other land use controls
 - frontage (water or road)
 - topography, including soil type
 - utilities (water, gas, electric, sewer)
 - cost of extending or installing utilities
 - financing (mortgage back, etcetera)
 - proposed use intended by the grantee at time of acquisition and present use
 - whether it is a contingency sale based on future development of individual lots - the adjustments must not be excessive in relation to the type of property being appraised and the market data available.
- v. Sales from neighboring towns may be used if necessary, providing that adjustments are made for different market characteristics, zoning, and other relevant factors.

b. Cost of Development Approach - Where the direct sales approach cannot account for the development potential of the subject property, determine the value of the property by use of the development less costs method (a/k/a "cost of development" or "anticipated use" method). Where such method is employed, include the following steps and information:

- i. Determination of the gross sales value of each lot within the subdivision based on data collected by the direct sales approach, and determination of the net value to the developer after deducting costs (e.g., engineering, construction, marketing, legal, financial and other carrying costs), as well as a percentage for the developer's profit (i.e., return on investment). In determining net value to the developer, extreme care must be exercised in estimating annual cash flow: front end costs may make the use of averages inappropriate. Also, the discount rate must primarily reflect the discounted current value of future income. The risk factor in a theoretical subdivision must be accounted for in the developer's profit rather than in the discount rate.
- ii. Confirmation of cost figures with professionals in the pertinent field and with local developers.

- iii. Substantiation of development capacity of the subject property through engineering reports and land use planning.
- iv. If a separate land planning element of the Report is not prepared, a sketch or plan showing the subdivision of the subject property to illustrate the number, location and size of the lots upon which the Report is based must be included.
- c. Value Comparison and Summary
 - i. The estimate of value arrived at by means of the Development Approach should be compared on a per acre basis with the value arrived at by the Direct Sales Comparison Approach.
 - ii. If the values do not closely agree, the reason for the divergence must be fully explained.

This section may be omitted if the Appraiser determines that use of the market approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- C. Value Estimate by Cost Approach: This section must be in the form of commutative data concerning construction or building materials arranged in sequence (i.e., original cost, depreciation, and current values) and including reproduction or replacement cost, and must state the source (book and page if a national service) of all figures used. If an acquisition by eminent domain is possible, the Appraiser should employ a cost estimator or engineer to determine the cost new. The dollar amounts of physical deterioration and functional and economic obsolescence, or the omission of same, should be explained in narrative form. This procedure may be omitted on improvements, both real and personal, for which only a salvage or scrap value is estimated.

This section may be omitted if the Appraiser determines that use of the cost approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- D. Value Estimate by Income Approach: This section of the Report must include adequate factual data to support each figure and factor used and must be arranged in detailed form to show at least (a) estimated gross economic rent or income, (b) allowances for vacancy and credit losses; and (c) itemized estimate of total expenses, including reserves for replacements. All data must be source documented and justified. In reference to comparable rental properties, include the name of the lessor, the lessee, the terms and date of the lease, and verification thereof.

Capitalization of net income must be based upon the type of property and location similar to the subject property. The capitalization technique, method and rate used should be fully explained in narrative form, supported by a statement of sources of rates and factors. Include adequate documentation to support the income, expenses, interest rate, remaining economic life and capitalization rate. Where it is determined that the economic rental income is different from the existing or contract income, the increase or decrease must be explained and supported by market information.

This section may be omitted if the Appraiser determines that use of the income approach is inappropriate; provided, however, the Report clearly states the reasons for such determination.

- E. Interpretation and Correlation of Estimates: Interpret the foregoing estimates and should state the reasons why one or more of the conclusions reached are indicative of the market value of the property. Include a summary of the data seen by the Appraiser to be most pertinent to the appraisal assignment. A clear explanation of how the data are interpreted, weighted and mathematically treated to reach the value conclusion must be provided.
- F. Less than Fee Acquisitions: Where the appraisal assignment is for determination of the value of less than fee interests in land (e.g., conservation restrictions), the Appraiser must determine the value of this interest by use of the before and after method. The Appraiser must fully detail the analysis of the highest and best use of the subject property without the restriction or easement as described herein, and clearly explain any changes in the highest and best use after imposition of the restriction or easement.

- G. Severance Damages: If the property being appraised is a partial acquisition or taking, or is a separate parcel but physically contiguous to other land of the owner, or is under the same ownership but physically non-contiguous to other land of the owner (but which may add value to the non-contiguous parcel, e.g., by providing access to a body of water), severance damages must be fully described and discussed. The method of value estimation should be the before and after method. The amount of the severance damages should be determined mathematically as well as described in narrative form.
- H. Enhancement: The Appraiser should investigate and determine whether the acquisition will enhance the value of the remaining property of the owner. If so, the method of value estimation must be the before-and-after method. The Report must set forth the enhancement value separately, with a full discussion and analysis of the factors giving rise to the enhancement.
- I. Changes in Valuation Caused by the Public Use or Improvement: Notwithstanding subsections F. and G. above, any change in the fair market value of real property prior to the date of valuation caused by the public use or improvement for which such property will be acquired, or by the likelihood that the property would be acquired for such use or improvement, will be disregarded in determining fair market value of the property.

V. EXHIBITS AND ADDENDA TO BE INCLUDED IN EACH REPORT

All maps and plans may be bound as facing pages opposite the description, tabulation or discussions they concern.

- A. Subject Location Map (within the city or area)
- B. Comparative Map Data (show geographic location of the subject property and the comparative parcels analyzed).
- C. Detail of the Comparative Data
 - a. Color Photograph of the Property (in the case of unimproved woodland, a photograph across the frontage showing the road frontage and surrounding area)
 - b. Grantor
 - c. Grantee
 - d. Date of Sale
 - e. Recording Data
 - f. Source of Information
 - g. Breakdown of Sales Price
 - i. amount to land
 - ii. amount to improvements
 - h. Terms of Sale
 - i. Improvements at Time of Sale
 - j. Use of property
 - k. Zoning
 - l. Description of property
 - i. size
 - ii. shape
 - iii. amount of frontage
 - iv. topography
 - v. utilities available
 - vi. amenities
 - vii. assessed value
- D. Plot Plan: The plot plan should include the approximate location of any improvements, easements, right of ways, flood plain zoning lines, and/or other encumbrances that exist or have been placed upon the property.
- E. Deed
- F. Floor Plans (when needed to explain the value estimates)
- G. Flood Plain Zoning Map (where applicable)
- H. Local Zoning (excerpts as required to support the appraisal)
- I. References (detail the sources from which the Appraiser drew information contained in the Report. Where information is from an office or individual, the appraiser should identify the name, address, capacity and telephone

number of the source of such information. Also list junior appraisers, researcher, etc. who assisted in preparation of the report)

- J. Other Pertinent Exhibits (e.g., timber cruise, land planning report, engineering report)
- K. A Resume of Qualifications (for all appraisers and other experts contributing to the determination of value in the Report).
- L. Owner's Property Inspection Certificate: The appraiser must invite the landowner or his or her representative to accompany the appraiser during inspection of the property. To allow the landowner time to make the necessary arrangements, the invitation should be made appropriately in advance of the planned inspection date. Reasonable efforts should be made to include the landowner or his or her representative in the inspection. The appraiser should consider any information the landowner may provide which is relevant to the issue of the value of the property inspected. However, the appraiser must use his or her best judgment as to the usefulness of any information provided by the landowner. See Exhibit 2.

VI. REPORTS OTHER THAN COMPLETE, SELF-CONTAINED

Reports other than Complete, Self-Contained appraisal reports must be prepared in compliance with the then current Uniform Standards of Professional Appraisal Practice (USPAP). Such reports may include complete appraisals in Summary or Restricted reports, or limited appraisals in Self-Contained, Summary or Restricted reports.

EXHIBIT I

CERTIFICATE OF VALUE

OWNER(S):

ADDRESS/LOCATION OF PROPERTY:

I, _____ HEREBY CERTIFY THE FOLLOWING: THAT ON _____, I PERSONALLY MADE A FIELD INSPECTION OF THE PROPERTY HEREIN APPRAISED AND HAVE AFFORDED THE OWNER THE OPPORTUNITY TO ACCOMPANY ME ON THIS INSPECTION;

That to the best of my knowledge and belief, the statements contained in the appraisal here set forth are true, and the information upon which the opinions expressed herein are based in correct, subject to the limiting conditions therein set forth;

That I understand that such appraisal may be used in connection with acquisition of the subject property by the City/Town of Massachusetts;

That such appraisal has been made in conformity with the appropriate state laws, regulations, policies, specifications and procedures;

That neither my employment nor my compensation for making this appraisal and report are in any way contingent upon the values reported herein;

That I have no direct or indirect present or contemplated future personal interest in such property or in any benefit from the acquisition of such property appraised; and

THAT MY OPINION OF THE VALUE OF THE PROPERTY AFFECTED BY THE PROPOSED ACQUISITION OR TAKING, AS OF THE _____ DAY OF _____, 20__ IS _____, AND THAT THE CONCLUSIONS SET FORTH IN THIS APPRAISAL ARE BASED UPON THE EXERCISE OF MY INDEPENDENT PROFESSIONAL JUDGMENT.

SIGNATURE _____

DATE _____

EXHIBIT 2: OWNER'S PROPERTY INSPECTION CERTIFICATE

1. _____ ()
Name(s) of Supposed Owner(s) Telephone Number with Area Code
- Address
Town/City State Area Code
2. Please check appropriate line
- _____ I wish to accompany the appraiser on an inspection of my property.
- _____ I wish to have my representative accompany the appraiser(s) on an inspection of my property. (Please fill in Item 3.)
- _____ I do not wish to accompany the appraiser(s) on an inspection of my property.
3. _____ ()
Name of Authorized Representative Telephone Number with Area Code
- Address
Town/City State Area Code
4. The following individuals and/or entities occupy the premises in accordance with an agreement as indicated (lease, life estate, etc.):
- a. _____ b. _____
Name of Individual or Entity Name of Individual or Entity
- _____ Occupied Premises _____ Occupied Premises
- _____ Type of Agreement _____ Type of Agreement
5. I certify that I have given the above-referenced tenants or occupants notice of the appraiser's inspection of the property.
- _____
Name(s) of Supposed Owner(s)
6. I hereby authorize the appraiser to enter and inspect the property, after reasonable notice, for the purposes of preparing an appraisal.
- _____
Owner's Signature Date

Attachment D: Requirements for acquisition projects funded through the Community Preservation Act (CPA)

The Community Preservation Act (CPA) states that land acquired with these funds is to be bound by a permanent restriction. Property acquired with the help of this grant program is protected Article 97 conservation land, however, this does not supersede the requirements of the Community Preservation Act. The CPA requires that, for fee acquisitions, the municipality convey a Ch. 184 CR to a qualified 501(c)(3) organization whose purpose is land and/or water conservation (e.g., land trusts). It may not be an internal deed restriction. Fulfillment of the CPA is the responsibility of the municipality; while it is desirable that all transactions related to a project be completed by the end of the fiscal year, conveyance of a CR to a qualified entity is not a requirement for funding under this grant program.

Conveying a conservation restriction over “parkland” normally would trigger the formal “Article 97” disposition process requiring a 2/3 vote of the Legislature. However, for guidance, EEA refers municipalities to the opinion of the Massachusetts Land Trust Coalition Attorney Referral Panel that states: “If a municipality acquires property under the CPA statute, it is required to impose a restriction on the property as a matter of law and thus the imposition of the restriction should be considered part of an integrated plan for dealing with the property. Therefore, the imposition of the restriction should not be considered a “disposition” of an interest in the property within the meaning of Article 97.”¹ All municipalities should seek final advice on this issue from their town counsel or city solicitor.

Points to remember when conveying a Conservation Restriction:

1. At the same time that it votes to acquire the property, the municipality should vote to authorize the grant of the CR and also indicate that the purchase of the property and conveyance of the CR be a simultaneous closing.
2. The deed to the municipality should indicate that the municipality may grant a CR to the specific entity identified to hold it or to an entity authorized to hold a CR under M.G.L. Ch. 184.
3. As long as a restriction is recorded **after** the recording of the deed of acquisition (even if immediately after), the unrestricted value (and therefore higher value) of the property is used for funding determinations in DCS grant programs.
4. The fact that the funding statute *requires* the restriction may mean that a party seeking a charitable contribution deduction in connection with a bargain sale of property may not be able to use the unrestricted value of the property in calculating the tax benefit.
5. The “proceeds” clause of the conservation restriction, if conveyed at no cost to the grantee, must provide that the municipality (as the fee owner) receives all of the proceeds of an extinguishment or taking, and the grantee receives none of such proceeds. In the event that the land ever is converted to non-conservation use, the municipality would still be responsible for replacing the converted property with land of equal or greater monetary value and conservation use and described in the Program Regulations, as though the land were owned in fee simple. Applicants should consult with DCS for guidance on drafting conservation restrictions for the appropriate language.

¹ Attorney Greg Bialecki and the Attorney Referral Panel of the Massachusetts Land Trust Coalition – Visit the Massachusetts Land Trust Coalition website at www.massland.org for this legal advisory.

Sample Vote Language for Community Preservation Act Projects

To see if the Town [or City] will vote to raise, borrow and/or appropriate \$Total Project Cost for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately ___ +/-acres owned by OWNER as described on Assessors Map___, Parcel ___, to be managed and controlled by the Conservation Commission of the Town [or City] of XXX in accordance with Chapter 40, Section 8C for conservation and passive recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Town Manager [or Board of Selectmen or City Council or Mayor] be authorized to file on behalf of the Town [or City] of XXX any and all applications deemed necessary under the Landscape Partnership grant program or any other applications for funds in any way connected with the scope of this acquisition, and the Town Manager and the Board of Selectmen [or Mayor and the City Council] and the Conservation Commission be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including the conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town [or City] of XXX to affect said purchase. Said conservation restriction may be granted to the [Name of Grantee] or any other organization qualified and willing to hold such a restriction.

Attachment E: Sample Municipal Vote

Each municipal partner should draft its warrant article or city council order with the guidance of municipal counsel. The form will vary with the type of project, source of funding, etc. All should include the following elements:

- I. Authorization to expend an amount equal to the full acquisition and/or development cost of the project. The total project cost must be raised or appropriated through current tax levy or borrowed.
- II. Indication of the source of funding (Conservation Fund, Community Preservation Act Fund, general fund, borrowing, etc.). M.G.L. Chapter 44, sections 7, 8C, and 12(a) on Municipal Indebtedness, allows cities and towns to borrow in anticipation of funding. It is strongly recommended that the warrant article or city council order is prepared with the advice of city/town counsel, treasurer and accountant to ensure that the appropriate section is noted in the warrant article. These sections permit the municipality to borrow in anticipation of a grant and require that a grant agreement be executed before the treasurer actually obtains the borrowed amount. This assures DCS that the municipality has 100% of the total project cost, and assures the municipality that the project need not be completed if the proposal does not receive grant assistance. For further advice, please contact the Department of Revenue, Division of Local Services at (617) 626-2300.
- III. Acquisition projects: indicate that land is being acquired either for conservation and passive outdoor recreation purposes (Chapter 40, Section 8c) or for active recreation purposes (Chapter 45, Section 3 or 14, for example) and will be in the care and control of the appropriate commission or department.
- IV. Authorization for the conservation commission to seek funding under the Landscape Partnership grant program, and enter any necessary contracts thereto.
- V. If a taking is involved in an acquisition project, the conservation commission must, in writing, request the selectmen or city council to take the property via eminent domain.
- VI. Communities may also consider allowing the subsequent conveyance of a Conservation Restriction.
- VII. Communities may also consider language permitting a license or lease agreement to manage the property consistent with this grant program for maintenance, etc.

The following is a sample vote authorizing the acquisition of conservation land using DCS financial assistance. This is intended only as a point of reference. **Municipal Counsel should always be consulted when drafting Town Meeting warrant articles or City Council orders.** The draft article or order should be submitted to DCS for review prior to the Town Meeting or City Council to ensure compliance with the grant program.

Sample for Conservation Acquisition Project – Town Meeting Warrant Article

To see if the CITY/TOWN will vote to appropriate, and authorize the Treasurer with the approval of the Selectmen [describe method of appropriation and/or borrowing according to M.G.L. Chapter 44, note particularly Section 8C], to borrow the sum of \$TOTAL PROJECT COST, for the purpose of purchasing for conservation and passive recreation purposes, by eminent domain or negotiated purchase or otherwise, a certain property together with buildings thereon, known as the PROPERTY NAME consisting of XXX acres, more or less, as shown on a plan entitled "Plan of Land in MUNICIPALITY made by SURVEYING FIRM dated XX/XX/XX"; that said land be conveyed to said CITY/TOWN under the provisions of Massachusetts General Laws, Chapter 40, Section 8c, and as it may hereafter be amended and other Massachusetts statutes relating to Conservation, to be managed and controlled by the Conservation Commission of MUNICIPALITY, and the Conservation Commission be authorized to file on behalf of MUNICIPALITY any and all applications deemed necessary for the Landscape Partnership grant and any other grants and /or funding from the Commonwealth of Massachusetts deemed necessary and/or any others in any way connected with the scope of this Article, and the CITY/TOWN and the Conservation Commission be authorized to enter into all agreements and execute any and all instruments as may be necessary on behalf of MUNICIPALITY to affect said purchase.

Attachment F: Guidelines for Boundary Maps

The Executive Office of Energy and Environmental Affairs requires a dated project boundary map that clearly delineates the permanently protected park, recreation or conservation land. The map must be submitted prior to project approval, and may be changed prior to final payment without triggering a conversion.

Project Area - At a minimum, must include the entire area acquired in an acquisition project.

Ensure that the recreational usefulness and attraction of the new protected area is viable on its own and independent of the surrounding or adjacent areas. If it is dependent upon other areas for access, those areas should also be included in the protected area.

A formal surveyed boundary plan showing metes and bounds is best, but not necessarily required.

The project area must be shown in enough detail to be legally sufficient to identify the protected area. These methods can be used in lieu of a survey plan:

- Assessors map with deed references
- Adjoining ownerships
- Adjoining easements of record
- Adjoining water bodies or other natural landmarks
- Government survey

Boundary Map Requirements:

1. Include the park name and project number and date of map preparation.
2. The map should have a scale, north arrow and the project boundary should be outlined in red.
3. Identify the owner of the land (i.e., *Municipal Conservation Commission*).
4. Identify any pre-existing uses (i.e. buildings) that should be excluded from the legally protected area.
5. Identify general ownership and land use of adjacent properties (i.e., public conservation or recreation land, residential, commercial, and industrial land uses).
6. Clearly identify and describe all public access points to the project area.
7. Show outstanding rights and interests in the area held by others and note the term remaining on the lease. Known easements, deed or lease restrictions, reversionary interest, etc. are to be indicated. Those outstanding rights and interests which, in the opinion of this office, would not adversely impact the utility and viability of the recreation or conservation area if exercised and not intended to be included under the conversion provisions should be specifically identified. These are typically utility easements. This office must be notified if any changes are made to these easements after the project is completed.
8. Clearly show key features and uses such as:
 - ☒ Number of acres acquired or developed
 - ☒ Named Roads
 - ☒ Bodies of water
 - ☒ Structures and improvements
 - ☒ Utilities
 - ☒ Restrictions, easements and rights-of-way
 - ☒ Wetlands
 - ☒ Trails
 - ☒ If the subject parcel is part of, adjacent to, or in close proximity to an existing protected area(s), also show the location of these protected sites including the project number and name for those sites.
 - ☒ Any other characteristics that aid in understanding the protected outdoor recreation resources

Attachment G: Legislation Guiding this Grant Program

MGL Ch. 236 of the Acts of 2002, Sec. 2

2000-2012.. For the purpose of protecting the ecological integrity of the commonwealth's privately held and managed forestlands pursuant to the forest vision plan, so-called, including, but not limited to, acquisition of interests in land, research, planning, and monitoring; provided, that projects and funding shall be approved by the secretary of environmental affairs; provided further, that projects may be carried out in cooperation with other governmental agencies, private land owners, and conservation organizations according to management agreements approved by said secretary... \$10,000,000

MGL Ch. 312 of the Acts of 2008, Sec. 2A

2000-7016.. For the conservation partnership grant program to assist not-for-profit corporations in acquiring interests in lands suitable for purposes of conservation or recreation; provided, that the corporation shall be formed for one of the purposes described in section 4 of chapter 180 of the General Laws and the corporation shall be considered an exempt organization within the meaning of section 501(c)(3) of the Internal Revenue Code; provided further, that grant funds shall be expended to reimburse an eligible corporation for money expended by it in establishing a project approved by the secretary of energy and environmental affairs under this program in an amount that the secretary shall determine to be equitable in consideration of anticipated benefits from the project, but in no event shall the amount of the reimbursement exceed 50 per cent of the cost of the project; provided further, that no reimbursement shall be made under this item to a corporation unless a project application is filed by the corporation with the secretary setting forth the plans and information that the secretary may require and approved by the secretary, nor until the corporation shall have certified, in a manner approved by the secretary, its ability to provide an amount equal to the total cost of the project, nor until the project has been completed, to the satisfaction of the secretary, in accordance with the approved plans; provided further, that all projects shall include the grant by the corporation of an appropriate perpetual conservation restriction, within the meaning of sections 31 and 32 of chapter 184 of the General Laws, to the city or town in which the project is located, to be managed by either its conservation or its recreation commission, or a state agency, or both; provided further, that all projects shall provide appropriate public access as determined by the secretary; and provided further, that the secretary may adopt rules and regulations to carry out this item.

2200-7017.. For grants to cities, towns and districts for the acquisition of lands and waters and easements by those cities, towns and districts to protect and conserve groundwater aquifers and recharge areas, surface water supplies and watershed areas, and surface or underground lands adjacent to those resources, for the protection of water that is determined by the department of environmental protection to be of potential use for water supply purposes; provided, that any grants approved by the department and provided to cities, towns and districts from this item may be for up to 60 per cent of the eligible costs of the projects

2300-7010.. For the acquisition of land and interests in land by the department of fish and game and for associated costs, including planning, study, due diligence, title and appraisal services, site restoration and stewardship for the purpose of protecting the native flora and fauna communities and for associated costs; provided, that the commissioner of fish and game may develop and utilize scientifically-based evaluation criteria to identify and select the most biologically significant areas throughout the commonwealth including, but not limited to, specific parcels, and that these lands may be purchased after being selected by this process and approved by the commissioner of fisheries and wildlife; provided further, that funds may be expended on the development and implementation of a stewardship program on lands under the care and control of the department of fish and game and its divisions, either in fee simple or through conservation easement, including but not limited to resource and land use monitoring, baseline documentation report creation, signage, boundary marking and monitoring, stewardship planning, stewardship personnel, stewardship database development, ecological monitoring, and enforcement of conservation restrictions or detection and resolution of encroachments on land owned in fee simple, and repair of damage related to illegal off-road vehicle trespass; provided further, that funds may be used for inventory, restoration and reclamation of recently acquired land, including demolition of structures, removal of debris, eradication of non-native species, and other services essential to these reclamation efforts

2500-7012.. For a program to acquire agricultural preservation restrictions under sections 23 to 26, inclusive, of chapter 20 of the General Laws; provided, that any person or entity that receives funds from this item shall be encouraged to participate in any programs of the department of agricultural resources that may be suggested by the commissioner of agricultural resources; provided further, that funds may be used for implementation of a stewardship program on APR lands including, but not limited to, resource and land use monitoring, boundary delineation and monitoring, stewardship planning, ecological

monitoring, and enforcement of agricultural preservation restrictions on existing and newly acquired APR properties; as well as the creation of new opportunities that seek to enhance the sustainability and viability of APR properties

2800-7011.. For the acquisition of land and interests in land by the department of conservation and recreation and for associated costs, including planning, study, due diligence, title and appraisal services, site restoration, stewardship, and costs associated with the defense of eminent domain takings for the purpose of protecting significant natural and cultural resources of the commonwealth and enhancing the department's system of forests, parks and reservations; provided, that funds may be used for development and implementation of a stewardship program on lands under the care and control of the department of conservation and recreation including, but not limited to, resource and land use monitoring, signage, boundary delineation and monitoring, preparation of baseline documentation, stewardship planning, ecological monitoring, and enforcement of conservation restrictions or detection and resolution of encroachments on land owned in fee simple, and repair of damage to property related to illegal uses, including off-road vehicle trespass; provided further, that funds may be used for inventory, restoration and reclamation of recently acquired land, including demolition of structures, removal of debris, eradication of non-native species, and other services essential to these reclamation efforts;...

2800-7022.. For the purpose of protecting and conserving the ecological and economic integrity of the commonwealth's privately held forestlands, including but not limited to acquisition of interests in land including easements, agreements, rights of first refusal and covenants; for a forestry conservation restriction program to acquire conservation restrictions under section 31 of chapter 184 for private working forests actively devoted to sustainable forestry, and classified as forest land under section 2 of chapter 61 of the General Laws, in order to encourage sustainable forestry, protect prime forest land, and help the viability and affordability of sustainable forestry; provided, that working forest conservation restrictions shall be held by the department of agriculture or the department of conservation and recreation or the municipality in which the land is located; provided further, that projects shall be rated based on the suitability of land to grow forest products, the fair market value of the land as determined by independent appraisers, proximity to other protected working forests, management history of the project to serve as a model of sustainable forestry and the degree to which the conservation restriction would serve to preserve and make affordable the practice of sustainable forestry in the commonwealth; and for grants to public and non-public organizations and private landowners for education, technical assistance, forest stewardship practices, enhancement of ecosystem services and carbon sequestration, estate planning, interests in land or associated land acquisition costs; grants to private forest landowners, forest businesses and non-profits for the forest viability program for enhancing sustainable economic benefits of forests, including business plans and implementation grants and no-development covenants to be held by the department of agriculture or the department of conservation and recreation, including but not limited to forest management plans for private landowners; provided, that projects and funding shall be approved by the secretary of energy and environmental affairs; and provided further, that projects may be carried out in cooperation with other governmental agencies, private landowners, and conservation organizations according to management agreements approved by the secretary.

Attachment H: Natural Resources Protection Zoning / Open Space Residential Design

Development of Natural Resources Protection Zoning (NRPZ) or Open Space Residential Design (OSRD) is an important and efficient way to protect land throughout your city or town, while keeping land in private ownership. Each municipality's zoning may be slightly different to accommodate the specific characteristics and needs of their community, however, there are a few common elements that must be in every proposed bylaw/ordinance for it to qualify as NRPZ, and funding through the Landscape Partnership program. NRPZ zoning must be applied to all currently undeveloped land outside of identified higher density city/town center(s) or other appropriate designated development district(s).

Common elements of NRPZ zoning:

- There is no “underlying zoning;” NRPZ is the zoning for the selected area.
- Subdivisions must comply with NRPZ requirements in order to be a use by-right; proposed deviations, including conventional subdivisions where the entire parcel is divided into houselots and streets, require a special permit. The special permit proposal must meet the objectives of the zoning district as least as well as an NRPZ plan.
- NRPZ is an option by site plan review for non-subdivision development (i.e., ANR and condominiums).
- The number of allowed dwelling units is calculated up-front by formula. There are no “yield plans” or conventional subdivision plans drawn. Constrained lands, such as wetlands and steep slopes, are wholly or partially subtracted from the gross project area; the remainder land is then divided by a selected “density divisor” of 3–10 or more acres per dwelling unit to arrive at a unit count. (Although a reduction in dwelling units from a conventional plan is possible, that is not always the case. Numerous examples based on actual properties have shown that the same or even additional units are possible under NRPZ.)
- The percentages of required open space protection are high, from 65–90%, leaving a significantly smaller area, between 10–35%, for development. Proposals for protection of 80% or less must be justified.
- Developed and open space areas are carefully selected on the parcel by way of a “conservation analysis” process built into the subdivision regulations.
- Greater design flexibility is offered in the developable areas (e.g., shared driveways, diversity of housing types, no specified lot sizes, frontages, or yard setbacks).
- Earned density bonuses and/or transfers of development rights are available to increase the number of allowed dwelling units in exchange for public benefits such as the provision of affordable housing or public access.

Additional Resources:

- Natural Resource Protection Zoning: The Green Side of Smart Growth (Explanatory Document) http://www.mass.gov/envir/smart_growth_toolkit/bylaws/green_side_smart_growth_nprz.pdf
- Model Bylaw for NRPZ/OSRD <http://www.mass.gov/czm/osrdmodelbylawsspecialpermit.pdf>

- OSRD/NRPZ overview, from MA Smart Growth/Smart Energy Toolkit:
http://www.mass.gov/envir/smart_growth_toolkit/pages/mod-osrd.html
- Town of Shutesbury Zoning Bylaw (see Article V)
http://www.mass.gov/envir/smart_growth_toolkit/bylaws/shutesbury_zoning.pdf

Acknowledgements:

Natural Resource Protection Zoning, including the “common elements’ language above and the New Salem and Shutesbury bylaws, were developed in large part by Jeff Lacy, a planner with the Department of Conservation and Recreation’s Division of Water Supply Protection.